CARR, MS. KEYS, Mr. REUSS, Mr. BADILLO, Mr. WALKER, Mrs. FENWICK, Mr. HARRINGTON, Mr. EDWARDS of Oklahoma, Mr. BEDELL, Mr. BENJAMIN, and Mr. BAUCUS):

H. Res. 913. Resolution expressing the sense of the House of Representatives with respect to continuation of U.S. Government support for American investment in and trade with South Africa; jointly, to the Committees on Banking, Finance and Urban Affairs, and International Relations.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

324. By the SPEAKER: Petition of the 23d Annual Session of the North Atlantic Assembly, Brussels, Belgium, relative to military and foreign policy issues; jointly to the Committees on Armed Services, and International Relations.

325. Also, petition of Kenneth C. Schoenecke, Westminster, Colo., relative to redress of grievances; jointly, to the Committees on International Relations, and Ways and Means.

SENATE—*Friday, November 4, 1977*

(Legislative day of Tuesday, November 1, 1977)

The Senate met at 8:55 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD STONE, a Senator from the State of Florida.

PRAYER

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

Almighty God, who hast given us this good land for our heritage; we humbly beseech Thee that we may always prove ourselves a people mindful of Thy favor and glad to do Thy will. Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government, that there may be justice and peace at home, and that, through obedience to Thy law, we may show forth Thy praise among the nations of the Earth. In the time of prosperity, fill our hearts with thankfulness, and in the day of trouble suffer not our trust in Thee to fail; all of which we ask through Jesus Christ our Lord, Amen.—Adapted from *Common Prayer*.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 4, 1977.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD STONE, a Senator from the State of Florida, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. STONE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, November 3, 1977, be approved.

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

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I believe there are two special orders for this morning, are there not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. Has the order been entered for the resumption of the unfinished business immediately upon the disposition of those two orders?

The ACTING PRESIDENT pro tempore. The Senator is correct; the order has been entered.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. GOLDWATER. Could the majority leader tell me what time the vote will occur on the Danforth amendment?

H.R. 9346

Mr. ROBERT C. BYRD. At 9:45 a.m. the Senate will begin 10 minutes of debate on that amendment. At 9:55, Mr. NELSON will be recognized to make a motion to table the amendment. If the motion to table fails, then the vote on the Danforth amendment will occur immediately after the vote on the motion to lay on the table.

Mr. GOLDWATER. I thank the Senator, because I would like to offer my amendment immediately after the disposition of the Danforth amendment.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

S. 897

Mr. BAKER. Mr. President, I have no need for my time this morning, except to say to the majority leader that I believe we can probably work out an agreement on time on the nuclear proliferation bill. Is my understanding correct that it is the majority leader's view that we can then put over that measure until January?

Mr. ROBERT C. BYRD. Mr. President, in response to the distinguished minority leader, it would be desirable if a time agreement could be entered into on the nuclear nonproliferation measure. Both the distinguished minority leader and I have been striving to nail down such an agreement for several days. We have encountered many difficulties. I had hoped to take up this legislation and dispose of it before the recess, but certainly we would not be able to do that if we did not have an agreement on it. Does the distinguished minority leader know whether or not the securing of a time agreement hinges on the timing of the consideration of the measure?

Mr. BAKER. Mr. President, I thank the majority leader for his reply. In answer to his question, I do not know what the circumstances may be today. As he pointed out, we have been on again and off again with this matter for about a week. I know that I support trying to schedule it and to obtain a reasonable time limitation on it, as I believe he does. But we have run into an extraordinary range of problems, both in terms of time limitation and in terms of time to consider the measure. The last report I had, one from some Members on this side, was that even if we could not schedule it for this week, which appears unlikely now since this is Friday, then we should probably go ahead and try to get a time limitation even if we agreed that it was going to be put over until January.

What I am saying is that this is not conditional, but I think it would be a good idea to get the time limitation anyway even if we had to confront the probability later today that the matter will have to go over until January.

Mr. ROBERT C. BYRD. Mr. President, I believe the distinguished minority leader has spoken wisely.

UNANIMOUS-CONSENT AGREEMENT—CALENDAR ORDER NO. 432, S. 897

Mr. ROBERT C. BYRD. Mr. President, I propound the unanimous-consent agreement which the minority leader and I have discussed, which would be as follows:

I ask unanimous consent that at such time as the nuclear nonproliferation bill (S. 897) is made the business before the Senate, there be a 2-hour time limitation on the bill to be equally divided between Mr. RIBICOFF and Mr. PERCY; that there be a time limitation of 1 hour on each of two amendments by Mr. CHURCH on behalf of the Energy Committee; that there be 1 hour on an amendment by Mr. MCCLURE, and one-half hour on any other amendment; that there be a time limitation of 20 minutes on any debatable motion, appeal, or point of order, and that the agreement be in the usual form.

Mr. BAKER. Mr. President, reserving the right to object and I shall not object, I am advised now that we have not completed our clearances on our side. Since it is only 3 minutes after 9 this morning, I have not been able to reach all of the offices I need to reach.

I wonder if the majority leader would agree to two things, in addition, to be incorporated in this request.

The first is that either he or I could vitiate this order at any time during the session of the Senate today.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. The second is that it could be supplemented by an agreement on the allocation of and the jurisdiction of the conferees.

Mr. ROBERT C. BYRD. I do not know that we can condition it upon the latter. Of course, any Senator may object to the unanimous-consent request sent to the Chair by the manager of the bill when the Chair names the list of conferees. The list can be amended by the Senate. I doubt that it could be conditioned upon that.

Mr. BAKER. Mr. President, I think that probably, and this is certainly no reflection on the majority leader who has tried very hard indeed to get this matter moved, that would sharply diminish the chances that a unanimous-consent agreement would be permitted to stand for the remainder of the day. I think it is good to go ahead with it, though, and if the majority leader would amend the request so that it could be vitiated by either of us during the course of the day, then we will make our respective inquiries and see whether or not it survives.

Mr. ROBERT C. BYRD. Mr. President, I so amend the request.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

TIME-LIMITATION AGREEMENT ON AN AMENDMENT TO H.R. 9346

Mr. BAKER. Mr. President, I might also advise the distinguished majority leader that it is my understanding that the distinguished Senator from Arizona is willing to accept a time limitation on the amendment he intends to offer to the social security bill early in the consideration of that measure today, 1 hour on his amendment to be equally divided. I wonder if he can give us some further information on that point.

Mr. GOLDWATER. Unless Senator DOLE would wish otherwise, 1 hour is all I could see. It is a subject which is well understood. It is part of the bill from the House. There are 42 cosponsors. It would not take me long to explain it. I would say 1 hour, with the reservation that maybe Senator DOLE might want it to be longer.

Mr. ROBERT C. BYRD. Mr. President, I make that request subject to the approval of both Mr. DOLE and Mr. NELSON. I do not believe there will be any objection on the part of Mr. NELSON.

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

Mr. BAKER. Mr. President, I thank the majority leader for his indulgence on these matters this morning. I have no further requirement for my time under the standing order and I yield it back.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader. Of course, we do hope we will be able to complete action on this legislation today.

I also thank the distinguished Senator from Wisconsin for waiting so patiently this morning.

SPECIAL ORDER

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

CHAIRMAN OF THE FEDERAL RESERVE BOARD

Mr. PROXMIRE. Mr. President, at the end of January, which is only a few weeks away, the President of the United States will be confronted with the problem of naming a new Chairman of the Federal Reserve Board. There has been a great deal of discussion as to whether the present, current Chairman, Dr. Arthur Burns, should be renamed. There is a campaign, and a strong campaign, to force President Carter to reappoint Chairman Arthur Burns.

In my view, that campaign is based primarily upon unreasoning support among the Nation's businessmen and not on the most vulnerable losing record of any top official in the Federal Government. Let us make no mistake about it, Dr. Burns is an eminent economist. He is an able man. I have known him very well in the 7 years he served as Chairman of the Federal Reserve Board. I knew him, of course, when he was Chairman of the Council of Economic Advisers. He is a man of great ability and distinction. He is perhaps as able a witness as I have ever had before a committee which I chaired. He understands economics thoroughly from a practical as well as a theoretical standpoint. I have agreed with some of his policies.

In the past few months, for example, I believe that Dr. Burns' policies have been about right. They have been criticized by both the moderates as being too loose and by those who feel that we need a more flexible and expansive monetary policy as being too tight. I think under the circumstances, regardless of who would be Chairman of the Federal Reserve Board, it would not be much different if we had a practical approach.

But let us judge the full 7-year Burns term by the cold, clear logic of results. On that basis, the Burns' term has not been a ringing success. It would be unfair to charge Burns or the Federal Reserve with the recession and stagnation of the seventies, but there also is not any question but that it must bear and share a responsibility. The Fed is the Nation's money manager. It stands right at the throttle of our economy.

Mr. President, I think it was about 3 or 4 months ago when the U.S. News & World Report made a survey of outstanding members of Government, business, the academic area, and the media as to who was the most powerful man in America, not just in Government but anywhere, and who was second, third, and fourth. Of course, the most powerful man was the President of the United States. That goes with the job. The second most powerful man was Arthur Burns. To a considerable extent that goes with the job, too. While he is the second most powerful man in our Nation, I think he is in some ways the most powerful man with respect to our economy. More than any other agency of Government, the Federal Reserve helps determine two key elements in our economic life. Its policies have a profound effect on the level of prices, and the Fed directly influences industry. So I think the best way to judge the performance of the Federal Reserve Board is by taking a look at what has happened to interest rates and what has happened to prices while Dr. Burns has been Chairman.

If we cannot hold the Fed fully responsible for the high levels of unemployment and slow growth that have characterized the years in which Mr. Burns has been Chairman of the Federal Reserve Board, we can demand to know why the Fed has had such a feeble record in controlling inflation.

Mr. President, I recently surveyed the record of the men who have served as Chairman of the Federal Reserve Board in the 64 years of its existence. I found that with the sole exception of the First World War, when the country had the combination of an all-out war and no price controls, the inflation performance of this country in the 7 years of Mr. Burns' leadership has been the most inflationary of any Fed Chairman in our history.

Just think of that: In World War I, we had an all-out war. Our economy had to act in a way that stretched our resources and, in many cases, exhausted our resources. Unemployment went down to a very, very low level. There was no price control. And of course, we developed the worst inflation we have had in this century.

On the other hand, the inflation we have had with Dr. Arthur Burns since 1970, when the Vietnam war was coming to a close and when we developed this energy disruption, has been almost as bad as or worse than in any other period.

Compare it, for example, with Marriner Eccles' period. He was chairman of the Board from 1934 to 1948. That was a period that began when we had 20 percent unemployment, and ended when we had 4 percent unemployment. It was a period in which we had an allout World War II, a period in which we were spending 50 percent of our gross national product for war materials—obviously, enormously inflationary. We had a deficit of over $50 billion and a gross national product that was only $150 billion.

We also terminated our price and wage controls in 1946. In spite of that, by 1948, in the whole sweep, inflation was less—in fact, the inflation under Dr. Burns is 50 percent more than it was during that period of recovery from our worst depression into a period of prosperity and through our greatest war. I submit that the terrific inflation we have suffered, at least in part, is the responsibility of Dr. Burns.

How about the record with respect to interest rates? Here the Fed has supreme authority. Even bankers agree the country functions far better when the level of interest rates is low. The

less interest people have to pay on the money they borrow, the easier it is to buy cars or homes, and the easier it is for business to get the capital they need to buy equipment and build plants. Low interest rates are not the only element necessary for a growing, prospering economy, but they certainly help.

And here—with interest rates—the Federal Reserve Board has the overwhelming responsibility. After all, the Fed controls the supply of money. Interest is the price of money. It is not unfair to hold Chairman Arthur Burns and the Fed accountable for the level of interest rates, particularly since Mr. Burns has been in his position for 7 years.

What has been the interest rate result of Mr. Burns' leadership? Under Mr. Burns, we have suffered the highest rates of interest in our history. Home mortgage rates today are at near record levels. And there is every indication that the monetary policies the Fed has been following in recent years under Mr. Burns will drive interest rates even higher.

There is clear, objective evidence that the business community expects interest rates to go higher. This is in the fact that long-term rates are higher and substantially higher than short term rates.

What that means, of course, is that the business community expects that in the future, interest rates are going to go up and go up sharply.

In housing, the interest rates on mortgages now exceed 9 percent. Mr. President, that is, in my view, one of the most depressing and unfortunate statistics in our economy. Housing has done more to stimulate our economy in periods of recovery than any other kind of economic activity. When we have 9 percent mortgage rates, it means two things: It means we cannot get a real housing boom in the housing we need; housing has recovered, but not adequately. It also means that a very large proportion of our people cannot afford to buy a home.

A Harvard-MIT study showed that two-thirds of our people today cannot afford to buy a new home and more than half cannot even afford a used home.

That interest rate is not solely the responsibility of the Federal Reserve Board, but they are primarily responsible.

It is clear that no one man, no one agency—not even the Federal Government as a whole—can be held responsible for all of the inflation, or the high level of interest rates we suffer. But there is no denying that the Federal Reserve Board for the last 7 years has had a central responsibility for inflation and for the level of interest rates and in both respects it has failed dismally.

If a general loses battle after battle, you do not demand he be reappointed in order to maintain confidence. If a corporation loses money year after year, the stockholders do not demand he be reappointed to maintain their confidence.

The Presiding Officer at the present time is the distinguished Senator from Florida. I know he is familiar with the situation in Tampa, with the Tampa Bay Buccaneers. Tampa, Fla., has a football team, the Tampa Bay Buccaneers. They have lost more than 20 games in a row, and yet their coach a fine, lovable gentleman, named John McKay, remains head coach. That is the owner's privilege. But if the owner should replace McKay, I doubt if there would be any question as to why it was done.

It was done, because he just has not won any football games. Maybe he will in a few years. Maybe Tampa Bay can take time. He has not had 7 years as Dr. Burns has had; he has had only 2. If he cannot produce in 7 years, I would be willing to wager that the owners would get a new coach.

The Fed, under Arthur Burns, has been the Tampa Bay of the Federal Government. If President Carter decides to replace this lovable gentleman, all he has to do is refer to the record, I think the country will understand.

Mr. President, I should like to conclude by pointing out, as I say, that it is not fair to hold the Fed completely responsible even for interest rates, but they do have a major responsibility. It is certainly not fair to hold them responsible for inflation and unemployment entirely. Again, they have a responsibility. What concerns me is that the Fed has not really studied these problems in a systematic way. They have not made the kind of formal review necessary of how well its policies are doing.

I discussed this with the staff of the Federal Reserve Board. They tell me they cannot recall a time when the Open Market Committee or the Chairman or the Board of Governors has asked the staff to compare their policies with the results their policies have been getting. They have not looked at the game films. They have not found out what is wrong with their policies and why their policies have not been successful. You might expect that if their policies worked, if we were enjoying a situation in which the situation had moderated and in which we were recovering and unemployment was low.

Just an hour ago, I saw the statistics on unemployment. They still remain at 7 percent. The wholesale price index out now is the highest in 6 months and foreshadows an increase in inflation at the consumer level shortly.

Mr. President, I might point out that there are strong feelings on the part of many people that Dr. Burns should be reappointed to reassert confidence in our business community. But I think we should recognize that there are other people who would be extremely able and competent to do the kind of job in the Federal Reserve that could reassure the country and give us the kind of economic policies that can enable us to proceed.

I might mention my own colleague from Milwaukee, HENRY REUSS, chairman of the House Banking Committee, a man whose understanding of monetary policy and international economics is unparalleled in the Congress. He has served over 20 years in the House with great distinction and he would be well qualified.

Dr. Roosa, who served as Under Secretary of the Treasury for some years in the Johnson administration, is recognized throughout the world as an eminent economist, a man who thoroughly understands the problems of our economy and the world economy.

Paul Volcker, president of the New York Federal Reserve Board, is another able man who could serve very well; or Dr. Andrew Brimmer, who has served on the Federal Reserve Board with considerable distinction and has spoken out over the years and demonstrated his knowledge and analytical ability.

Arthur Okun, who served as Chairman of the Council of Economic Advisers, is another brilliant economist.

Dr. Tobin of Yale, as sharp and bright a monetary economist as we have in this country, testified before our committee a number of times and is widely recognized for his brilliance.

Dr. Walter Heller, as articulate an economist as I have ever seen, Chairman of the Council of Economic Advisers under President Kennedy, He did more to enlighten the Kennedy administration and the country on modern economic policy than any man who has served in that capacity.

We had a great Vice Governor of the Federal Reserve Board in Governor Robertson, a man of great ability and distinction who could serve in that capacity.

As a matter of fact, it might rankle some of my liberal friends, but I think consideration might even be given to bringing back William McChesney Martin. He has the confidence of the business community. He served with great distinction for a number of years under both parties. He is a man, if reappointed, and he could be since he has been out of office now for some time, would, I am sure, bring to that office not only great experience but the confidence of the business community.

So, Mr. President, there are a number of people who could serve in that capacity.

I do hope the strong campaign to reappoint Arthur Burns does not put the President in a position of feeling he has no alternatives. He has many alternatives. And, on the basis of the record, if he retires this fine, loveable, distinguished economist, I think Dr. Burns will have earned the rest and the country will have an opportunity for a more constructive and effective economic policy.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper entitled "Increase in the Consumer Price Index Under Each New Chairman of the Federal Reserve System."

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

INCREASE IN THE CONSUMER PRICE INDEX UNDER EACH NEW CHAIRMAN OF THE FEDERAL RESERVE SYSTEM[1]

[1967—100]

Chairman (years in office)	Percent increase	Annual rate of change (percent)
Charles Hamlin (August 1914–August 1916)	8.6	4.2
W. P. G. Harding (August 1916–August 1922)	53.5	7.4
Daniel Cressenger (May 1923–September 1927)	3.6	.7
Roy A. Young (October 1927–August 1930)	−3.8	−1.3
Eugene Meyer (September 1930–May 1933)	−18.2	−9.6

NEW CHAIRMAN OF THE FEDERAL RESERVE SYSTEM [1]—Con.

[1967—100]

Chairman (years in office)	Percent increase	Annua rate of change (percent)
Eugene Black (May 1933-August 1934)	−2.0	−1.0
Marriner Eccles (November 1934-January 1948)	66.8	4.0
Thomas McCabe (April 1948-March 1951)	7.8	2.5
William McC. Martin, Jr. (April 1951-January 1970)	52.3	2.2
Arthur F. Burns (February 1970-September 1977)	62.4	6.5

[1] Percent changes in all 3 tables are based upon annual averages. Because terms in office do not normally correspond with calendar years the change in prices is based upon those years for which the individual could most influence the rate of inflation. For example, Hamlin entered office in August 1914 and left office in August 1916. He therefore had little opportunity to affect price changes in 1914 but he could have affected price changes in 1916. Therefore, the change in prices "credited" to him was based on the price changes in 1915 and 1916.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and I yield the floor.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT TO SENATE CONCURRENT RESOLUTION 60

NO. 1662

(Purpose: to denounce repressive measures by the People's Republic of China.)

Mr. GOLDWATER. Mr. President, I am sending to the desk an amendment which I propose to offer to Senate Concurrent Resolution 60, should it ever be brought to a vote.

Senate Concurrent Resolution 60 is a resolution relating to South Africa. In other words, giving the approval of the Senate to what the President has done.

The essence of my amendment is to be inserted in the preamble and it will say:

Whereas the People's Republic of China has eliminated the open practice of religion among the most populated territory of the world, stamped out freedom of the press, barred free labor trade unions, denied freedom of assembly, curbed freedom of travel, extinguished an independent free judiciary, detained millions of political prisoners in so-called labor reform camps, executed millions of persons because of their political beliefs, and otherwise cruelly suppressed the entire spectrum of human rights, and

I am offering this, Mr. President, because I do not think it is right for this country to be critical, as we have been, and probably rightly so, I think it expresses the feelings of many Americans of apartheid as practiced in South Africa. But I maintain it is really none of our business. If that is the way they want to run their Government, that is their problem, not ours. We have enough problems here without going around the world looking for other places to criticize.

But if we are going to denounce that type of government, then I see no reason why we should in the same or maybe the next breath entertain the idea we might extend diplomatic relations to the most barbaric government, probably, in the history of the world.

I might mention, we could add Cuba on this resolution. We could add the Soviet Union. We could add many countries in this world that practice abuses against human rights far greater than those practiced in South Africa, practiced by the whites against the coloreds and the blacks.

People think of South Africa as being populated first by blacks. This is true if we think of one tribe, the Hottentots, but the other members of nine total tribes came after the white men came.

Again, I do not particularly condone that type of government, but it is their problem. If our country is going to inject itself into the solving of the governmental and human relations of this whole world, then I want to be fair about it, and I want to see us include the People's Republic of China as No. 1. Then we can go to work on the rest of them.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

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

AMDT. NO. 1652

On page 2, line 4, immediately after "South Africa" insert "and the Government of the People's Republic of China."

On page 3, line 6, immediately after "South Africa" insert "and the People's Republic of China."

In the preamble, immediately after the third whereas clause, insert the following:

"Whereas the People's Republic of China has eliminated the open practice of religion among the most populated territory of the world, stamped out freedom of the press, barred free labor trade unions, denied freedom of assembly, curbed freedom of travel, extinguished an independent free judiciary, detained millions of political prisoners in so-called labor reform camps, executed millions of persons because of their political beliefs, and otherwise cruelly suppressed the entire spectrum of human rights, and".

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized for not to exceed 15 minutes.

HUMAN RIGHTS IN CAMBODIA—SENATE RESOLUTION 323

Mr. DOLE. Mr. President, I call the Senate's attention to what is perhaps the most brutal and inhumane situation existing in the world today. It is the plight of the Cambodian people, under the rule of the Communist Party. At a time when this Congress and this administration are focusing increasing attention upon human rights violations around the world, it is indefensible to ignore what has been taking place within Cambodia, or the Democratic Kampu Chea, as it is called by the Communist regime.

In recent days, both the President and some Members of this body have been highly critical of rights violations carried out by the Government of South Africa. As much as recent incidents in South Africa may concern us, they are greatly overshadowed by the gross brutality that has been a hallmark of the Communist Cambodian regime ever since it came to power 2½ years ago. Yet, our own Government has failed to register the horror and condemnation that the Cambodian situation so well deserves.

DOLE AMENDMENT

For that reason, I am today proposing that the U.S. Senate place itself clearly and directly on record as denouncing the regime of the Democratic Kampu Chea. Furthermore, we should urge the President to take effective measures to register the deep concern of the American people about the gross violations of human rights in Cambodia, just as it has been proposed with respect to South Africa in Senate Concurrent Resolution 60, which was reported by the Senate Foreign Relations Committee earlier this week.

Mr. President, I ask unanimous consent that the full text of my resolution be printed in the RECORD at this point.

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

S. RES. 323

Whereas, the moral intent of United States foreign policy is comprised, in part, of efforts to advance international human rights observance; and

Whereas, there have been numerous credible accounts by refugees from Cambodia telling of countless executions and other barbaric brutalities by the Government of "Democratic Kampuchea," confirmed in part by Kampuchean leaders themselves; and

Whereas, such repressive measures represent serious violations of the basic rights of the Cambodian people, and deserve the condemnation of all those who cherish the cause of freedom and justice; and

Whereas, the United States holds such actions to be unacceptable: Now, therefore be it

Resolved, That the United States Senate—

(1) strongly denounces the continuing disregard for basic human rights, including atrocities and killings, of the Cambodian people by the Government of Democratic Kampuchea; and

(2) calls upon the President to take effective measures to register the deep concern of the American people about the violation of human rights in that country; and

(3) calls upon the President to cooperate with other nations, through appropriate international forums such as the United Nations, in an effort to bring the flagrant violations of internationally recognized human rights in Cambodia to an end.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

SECRECY AND SLAUGHTER

Mr. DOLE. Mr. President, the Communist government of Cambodia is, indeed, a recognized deviant within the international community. Widespread executions and subhuman living standards have shocked all but the most insensitive governments of the world. The Cambodian reign of terror harkens back to mankind's most primitive and uncivilized condition, and the Cambodian

regime is commonly considered the cruelest since that of Nazi Germany.

There are no precise statistics on the number of Cambodians who have died under the Communist tyranny, but estimates range from a quarter of a million, to well over one million. There is ample basis for expecting the actual toll to be closer to the higher figure.

Contact with the outside world has been practically nonexistent. Only nine governments maintain official relations with the Kampuchean government, and only four of these maintain embassies within the country. Until the Cambodian delegation's official visit to Peking last month, it was not even clear who handled the reigns of power in the government.

Mr. President, despite the extraordinary secrecy and slaughter which characterize the Cambodian regime, there has been no international denunciation of the regime. There has been no official condemnation by the United States, other than a resolution passed by the House of Representatives on September 27 of this year. And, oddly enough, there have been no outraged students protesting on campuses and no demonstrations at the United Nations against the brutality by the Communists. Yet, it was not so long ago that demonstrators were protesting American bombing of Cambodia. I recall well that many Members of the Senate spoke loudly and eloquently against that action. Where, then, is the justified indignation that is needed today?

THE BACKGROUND OF BRUTALITY

At the same time that hordes of North Vietnamese were invading South Vietnam, the Communist Khmer Rouge were consolidating their bloody grip on the people of Cambodia. Phnom Penh, the capital of Cambodia, was captured by the Khmer Rouge on April 17, 1975, following the collapse of the democratic government. In an effort without parallel in modern history, the Communist regime immediately forced the mass evacuation of 4 million city residents into the countryside. It has been estimated that as many as 400,000 of the evacuees perished during the forced marches to rural living areas. None were spared the hardships of the evacuation, including hospital patients and the elderly. Those who collapsed from sickness, exhaustion, or hunger during the march were immediately shot or left to die along the way.

According to Cambodia's Communist rulers, the evacuation of the country's cities in 1975 was necessary to break up "enemy spy organizations" and to revolutionize the social order into a system of rural communes.

The mass relocations were followed by forced labor in agricultural collectives, and a system of "class-leveling" that involved the liquidation of elements of wealth, status, and academia from the old order. According to reports from refugees, large numbers of intellectuals, businessmen, and former government officials were summarily executed. A widespread effort was undertaken to accomplish a complete break with past traditions, customs, and with family and friends.

MALNUTRITION AND DISEASE

Perhaps those who survived were the more unfortunate. For the past 2 years, Cambodia has been wracked by chronic food shortages that have led to malnutrition and disease among much of the Cambodian population. The exhaustive impact of forced labor for long periods has had its toll; the Cambodian deputy prime minister admitted in May of 1977 that "thousands have died in the rice fields" of Cambodia. Despite the mine fields and armed patrols that guard Cambodia's borders, more than 25,000 refugees have managed to flee to Thailand since 1975, and some 60,000 have fled to Vietnam within the past year.

FOCUS ATTENTION ON REPRESSION

Mr. President, there are some encouraging signs that increasing attention may be directed to this deplorable situation. In September of this year, the House of Representatives passed a resolution of condemnation, similar to the one I am proposing today. Although the matter of human rights violations is not—and should never become—a partisan issue, the Republican National Committee did adopt a resolution at its meeting in New Orleans on September 30, calling upon President Carter to instruct the U.S. Ambassador to the United Nations to introduce a resolution censuring the brutality of the Cambodian Government.

Mr. President, I ask unanimous consent that the Republican National Committee resolution be printed in the RECORD at this point.

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

RESOLUTION CONCERNING HUMAN RIGHTS

Whereas, President Carter has attempted to build much of his foreign policy around the center issue of human rights; and

Whereas, The choice of governments targeted for criticism by the President and his appointees has been highly selective, to the exclusion of even more repugnant examples of human misery and carnage currently being visited by certain governments upon their own people; and,

Whereas, Such selectivity—by ignoring the most obviously outrageous examples of human rights violation in the world today—does positive damage to the credibility of the United States and to that of the office of the Presidency;

Now therefore be it resolved, That the Republican National Committee calls upon President Carter to instruct his United Nations Ambassador, Mr. Andrew Young, to introduce two resolutions of censure into the UN General Assembly;

(1) Against Mr. Idi Amin, President for Life of Uganda, who in recent years has brutally butchered all political enemies, either real or imagined; and

(2) Against the communist government of Cambodia, which during the past twenty-nine months since it first seized power in April of 1975, has systematically reduced its population—through forced evacuation of the cities, and outright wholesale liquidations—by roughly two million people out of a total of approximately seven million.

Be it further *resolved*, That the Carter Administration has not seen fit to draw the attention of the American people to the dimensions of the Cambodian tragedy in particular, the Republican Party itself shall undertake that task as one demonstration of its own commitment to the cause of human rights.

LETTER FROM A REFUGEE

Mr. DOLE. Mr. President, in August of this year, I received a letter from a brigadier general in the former Cambodian Republic's Army, who was in the United States at the time of the coup in 1975, and who is now residing in the State of Kansas.

The general expressed his deep concern about the plight of his countrymen and, at his request, I contacted the U.S. Representative to the United Nations Human Rights Commission concerning the matter. The response I received from Edward Mezvinsky, our representative to the Commission, indicated that he does intend to raise the question of Cambodia before the meeting of the United Nation's Commission on Human Rights in Geneva next February. His letter also indicates what little leverage the United States has over the situation in Cambodia at this time.

Mr. President, I ask unanimous consent that the text of the general's letter, and that of Mr. Mezvinsky's response, be printed in the RECORD at this point.

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

LEAVENWORTH, *August 22, 1977.*

Hon. BOB DOLE,
U.S. Senate, Kansas,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: The purpose of this letter, suggested by State Senator Ed Reilly of Leavenworth, is to request your assistance in bringing to the attention of the people of the United States and the United Nations the plight of the people in my homeland: Khmer Republic of Cambodia.

I am Brigadier General of the Army of the Khmer Republic. I arrived in the United States in April 1974 to attend the 1974–75 regular course at the Command and General Staff College at Fort Leavenworth, Kansas. Before the course ended in the Spring of 1975 my country had been taken over by the communist-Khmer Rouge. I was fortunate that my wife and four children had come with me to the U.S. and that later my wife's grandmother was able to be evacuated and come to the United States. But this is my personal good fortune and does not reduce my concern for the rest of the people in my country who could not escape the communist takeover.

I have several sources of information concerning the terrible conditions inside the boundaries of my country. First and most important, the lives of between one and two million of my people have been taken by the communist regime in the past two years. The dead probably include many of my wife's, and my close friends and relatives, including officers and men who served with me for many years before I came to the United States. Your President and his Administration have pledged to fight for Civil and Human Rights. I can think of no more serious violation of Human Rights than for the communists to take the lives of a people who only wish to be free.

But those lives are already lost and cannot be restored. The next most important concern is the fate of the five million lives of those who remain under communist domination. Friends of mine who have escaped recently have reported to me of starvation, disease, and many kinds of oppression, including torture. There is a serious lack of food and medicine—items that the Inter-

national Red Cross has supplied to millions of people all over the world for many years, even during wartime. But the people of my country are receiving nothing—except hunger, sickness, and mistreatment.

I am sure that you are aware of the Khmer Rouge raids across the Cambodian border into Thailand. This not only endangers the Thai government but it also threatens the safety of many thousands of my people who have sought sanctuary within Thailand. Many thousands of Cambodians, including officers and men of my former Army Division, have formed Resistance groups on or near the borders between Cambodia, Thailand and Vietnam. They will not give up easily because they love their country as I do. And yet their power to continue resisting depends on many things of which they are short: weapons, ammunitions, food, and other important supplies to include medicine. They can do little now but hide in the countryside and wait for help from outside. With some indication of help, I know that these Resistance groups would grow by many more thousands of fighting men who wish to return to their homes and would give their lives to let their families and country be free again. I am one of those.

Surely there must be some agency in the United States or in the United Nations which could enter Cambodia to inspect the present conditions and convince the Khmer Rouge to at least permit aid to be sent in, under International supervision, for the sick and starving whom the communists have not or will not care for. Surely there is some way to aid Resistance groups, as the Allies did for the French Resistance during World War II. The government of Thailand is sympathetic with free Cambodians and yet, nearly surrounded by communist governments, it is reluctant to take action even against raids across its border, except for diplomatic protests.

I implore you, Senator Dole, to bring this situation to the attention of the United States Government and to the United Nations if possible. I am aware that your Government's present policy is to take a "soft line" with the communist government—thus the visit of President Nixon previously and now Secretary of State Vance to communist China. But, please, try to find some way to help my people, or to help me to help them. This letter is the only way I know of that I can try to help them now, but with outside assistance I could do much more.

I have much more information, but not nearly enough, about conditions inside Cambodia. I receive correspondence from former government officials, and members of the former military Staff who escaped before execution, from all over the world. They all ask for the same thing, I am asking: assistance for my people, humanitarian treatment for our families, relatives, and countrymen. Therefore, I am writing this letter, not only for myself but for all friends as well. Should you wish more information about this situation, please let me know.

Thank you for your help.

U.S. MISSION
TO THE UNITED NATIONS,
October 26, 1977.

Hon. ROBERT DOLE,
U.S. Senator, U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: I am sorry for the delay, but unfortunately your letter was just brought to my attention.

I read Brigadier General Un Kauv's letter with great concern. Mr. Kauv's statement as well as other recent disclosures about conditions inside Cambodia have been shocking. It appears that a monstrous regime has an entire nation locked in the grip of a perpetual "reign of terror" in the name of "social progress". The reported number of lives that have been given to create this "utopian" state boggles the imagination of civilized people.

Unfortunately, Mr. Kauv's suggestion that some agency should enter Cambodia to inspect internal conditions seems impossible at this time. As you know, the current regime has isolated itself almost completely from the rest of the world. There are fewer than a dozen embassies in Phnom Penh. Until the recent surfacing of Pol Pot in Peking, we in the West had little idea who was actually running the country. Even here in New York the Cambodians avoid contact with members of other delegations. I fear this secretive "concentration camp" mentality precludes any possibility of observer missions gaining access to Cambodia in the near future. This also means that humanitarian assistance to those being oppressed is impossible barring military intervention.

The United States does not have relations with Cambodia. U.S. legislation prohibits aid to Cambodia and export and foreign assets controls in effect for Cambodia restrict any unlicensed transactions between Cambodia and individuals or companies under U.S. jurisdiction. In the present circumstances, we have almost no influence with the Cambodian government. We have taken the position that we would support a responsible investigation into the situation in Cambodia.

What the United States has been doing is to provide assistance for those Cambodians who have fled their country. Over 6000 Cambodian refugees have come to the United States for resettlement. We have contributed more than $18 million to the United Nations High Commissioner for Refugees for the relief of Cambodian, Lao and Vietnamese refugees.

Furthermore, I believe that the events in Cambodia must be widely publicized. I have consulted with other State Department officials as to what course of action should be taken by the United States Government. I will raise the question of Cambodia before the February meeting of the United Nations Commission on Human Rights in Geneva. I am also exploring what can be done about this matter at the current General Assembly. As long as the regime holds the people of Cambodia in its bloody grip be assured that I will voice U.S. concern.

Sincerely,

EDWARD MEZVINSKY,
U.S. Representative to the United Nations Human Rights Commission.

SENATE ACTION NEEDED

Mr. DOLE. Mr. President, despite our limited ability to help relieve the repressive situation in Cambodia so long as the Communist regime avoids contact with the Western World, the U.S. Senate should not remain silent. Earlier this year, I submitted an amendment to the International Monetary Organization authorization bill to insure that no U.S. contributions to international financial institutions could be used to prop up the brutal Communist regime in Cambodia, as well as those in Laos and Vietnam. That amendment passed the Senate by a vote of 58 to 32 on June 14, but was later watered down considerably in conference.

At this time, I want to reassert my efforts and express my conviction that, if we are to condemn the South African Government and others for human rights violations, then we should do no less with respect to the Communist regime in Cambodia.

I urge the Senate Foreign Relations Committee to act promptly on this resolution. Hearings on the Cambodian repression should be conducted, and I hope my resolution can be reported early in the 2d session of the 95th Congress, so that the full Senate may have a chance to express its extreme indignation—indeed, its horror—at what is taking place within Cambodia.

Mr. President, there are 24 American servicemen and 9 American civilians missing in Cambodia. The Woodcock Commission's efforts to discuss this matter with the Cambodians was rejected. So there is another reason why we should move very quickly and express our indignation at the horror we witness in Cambodia.

Mr. President, this resolution I am submitting is cosponsored by Senator MCCLURE, Senator GARN, Senator CASE, Senator HAYAKAWA, Senator HELMS, Senator GOLDWATER, and Senator GRIFFIN.

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

The resolution (S. Res. 323) was referred to the Committee on Foreign Relations.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The ACTING PRESIDENT pro tempore. The hour of 9:45 having arrived, the Senate will proceed to the unfinished business which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 9346) to amend the Social Security Act and the Internal Revenue Code of 1954, to strengthen the financing of the social security system, and so forth, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 1615

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I yield myself 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized for 3 minutes.

Mr. DANFORTH. Mr. President, the basic point, the only point of this amendment is to cushion the blow of programed increases in social security tax liability for State and local government and for not-for-profit organizations.

This amendment will not provide a windfall to anyone. No employer by virtue of this amendment will be paying less social security taxes in 1979 than today; no employer under this amendment will be paying less social security taxes in 1980 than in 1979.

The problem is that, by virtue of the bill that is now before us in whatever form it eventually comes out and by virtue of increases in social security tax liability already programed in the law, State and local governments and not-for-profit organizations are going to experience a tremendous increase in social security tax liability over the next decade and beyond.

As a matter of fact, if we do absolutely nothing, if we do not adopt this amendment under the bill before us with the

increases already programed in the law, State and local governments and nonprofit organizations will experience a 227-percent increase in social security tax liability by the year 1987.

That is just too much. Even under this amendment, if adopted, the increase in social security tax liability for this group of employers will be 197 percent. So we are just talking about a little cushion from that tremendous blow.

My point is simply that the American people rely on State government, local government, the United Way, the Salvation Army, the Boy Scouts, and so on, to deliver meaningful services in their community, and to the extent that we deal a substantial economic blow to this class of employers we are going to make it difficult if not impossible for them to provide the services for the American people that the people of our country demand and need.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. NELSON. Mr. President, this proposal, or the essence of it, was discussed on a previous day, so I shall attempt to avoid being repetitious about all that was said. I will only comment on the major points.

The essence of this proposal is that for the first time general fund moneys will be used for the purpose of supporting the social security system.

That may or may not be a good idea, depending upon one's viewpoint. There are those who believe there ought to be a direct infusion of general fund moneys into the social security system, and there are those who strongly argue against it; both of them have defensible arguments from their own standpoints.

This proposal, however, would have the effect of refunding from the general fund 10 percent of all social security taxes paid by all States and all municipalities, public and private colleges, and other charitable institutions. The cost of this amendment starts at about a billion dollars a year, and during the period between now and 1987, the total cost will be $14 billion. In 1987, the cost will be a little more than $2 billion a year. By the year 1990, there will be a $20 billion infusion of general fund money into the social security system, which is nothing more than a revenue-sharing concept.

Even if one does believe that general fund moneys should be infused into the social security system directly, the question is whether this is the way to do it. The general fund of the United States is supported by exactly the same taxpayers who pay the social security for the States, the municipalities, and the public colleges. So taxpayers who are paying money into the general fund will support the States, municipalities, and other nonprofit organizations who will receive a reduction in their social security tax payments.

If I were to support, at this stage, the concept of using general fund moneys, it would not be my view that this is the best way to do it. In any case, I am not prepared to support the concept at this time. The general fund money that goes back to the municipalities, running at a level of $2 billion a year by 1987, does not increase the benefits of a single retiree in this country. It is a revenue sharing plan so far as the municipalities and States are concerned.

We now have a general revenue sharing plan which is sending $6 billion a year in general revenues back to the municipalities and the States. Do we want to add to that general revenue sharing plan at this time, in this social security bill?

The Finance Committee proposal pending before the Senate authorizes all eligible employers—the States, municipalities, charitable organizations, and private colleges—to get a refund to 50 percent of the excess that they pay on the employee's base over what the employee pays. That authorization will phase out in 25 years as the base of the employee rises——

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. NELSON [continuing]. And equals that of the employer. So I think it is a mistake to use general fund moneys at this time for this purpose.

Mr. President, how much time does the Senator from Missouri have?

The ACTING PRESIDENT pro tempore. Two minutes.

Mr. NELSON. I believe it was understood that we would delay the rollcall for 5 or 10 minutes from the time set by the unanimous consent agreement yesterday. Was that correct?

Mr. DANFORTH. I think there was supposed to be, at 5 minutes to 10, a vote on the motion to table.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. NELSON. As I recall, Senator MOYNIHAN had asked whether we could extend that time until 10 o'clock or something, and he discussed that request with the Senator from Missouri, did he not?

Mr. DANFORTH. Mr. President, reserving the right to object, I would like to clear this with the minority leader. It is my understanding—you want to do what?

Mr. NELSON. If the Senator will recall, Senator MOYNIHAN asked for a 5- or 10-minute delay in the vote, and I believe he discussed it with the Senator from Missouri yesterday.

Mr. DANFORTH. Yes. Further reserving the right to object, I did discuss that, his request, with Senator CRANSTON and Senator ROBERT C. BYRD, and they told me that they wanted to go ahead with the vote at 5 minutes until 10. It is immaterial to me, but that was their statement yesterday.

Mr. NELSON. Before the minority leader came in, we were discussing that we have a unanimous-consent agreement to vote at 5 minutes to 10. Senator MOYNIHAN had delayed taking up his proposal to set aside the Danforth proposal, and discovered that, in going to New York and catching his plane back, he would need to have another 5 minutes. I wonder if the minority leader would agree to that.

Mr. BAKER. Mr. President, I have no objection to that. There will be no objection on this side if it is satisfactory to the Senator from Missouri. Until what time is that?

Mr. NELSON. Five after 10.

Mr. BAKER. Make it 5 after 10.

Mr. DANFORTH. That is satisfactory to me. However, I do not think it is satisfactory to the majority leader.

Mr. BAKER. The distinguished Senator from West Virginia, the majority leader, has constructed a pretty precise schedule of voting. If it is suitable to him, it is certainly suitable to me.

Mr. DANFORTH. Mr. President, may I now be recognized for 2 minutes?

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired pursuant to the previous order.

UP AMENDMENT NO. 1050

Mr. DANFORTH. Mr. President, I ask unanimous consent that I may now send to the desk my amendment with certain modifications, which have been checked with the staff of the Senator from Wisconsin, and that the amendment as presently sent to the desk might be the one to be voted on.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NELSON. May I ask, what is the request?

The ACTING PRESIDENT pro tempore. There is a unanimous-consent request propounded by the Senator from Missouri to modify his amendment.

Mr. DANFORTH. It is technical corrections, and it has been cleared with the Senator's staff.

Mr. NELSON. I understand. Does anyone object?

The ACTING PRESIDENT pro tempore. Is there objection to the modification of the amendment? The Chair hearing none, the amendment will be so modified.

The amendment as modified is as follows:

Strike out section 106 and insert in lieu thereof the following:

REDUCTION IN TAX FOR CERTAIN PUBLIC AND NONPROFIT EMPLOYERS

SEC. 106. (a) Section 218 (e) of the Social Security Act is amended—

(1) by inserting ", subject to the provisions of paragraphs (3), (4), and (5)," after "will pay" in paragraph (1)(A) thereof; and

(2) by adding at the end thereof the following new paragraphs:

"(3) For purposes of paragraph (1)(A) in determining the amount of taxes which would be imposed—

"(A) for calendar year 1979, the rates of tax under such section 3111 and the contribution and benefit base (as determined under section 230) which would have applied for calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977 shall be applied; and

"(B) for calendar years 1980 and thereafter, the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 (without regard to the provisions of this paragraph) with respect to such employees shall (except as otherwise provided in paragraph (5)) be reduced by 10 percent.

"(4) Each agreement under this section shall provide that any State whose payments under the agreement are reduced by reason of paragraph (3) or paragraph (5) shall agree to pay (and any such reduction shall

be made on the condition that such State pay) to any political subdivision thereof a percentage of the aggregate amount of such reduction which percentage shall be equal to the percentage of the amount paid by such State under paragraph (1)(A) for which such State was reimbursed by such political subdivision.

"(5) The amount of the taxes which would be imposed by such section 3111 for a calendar year (taking into account the provision of paragraph (3)) shall not be less than the lesser of

"(A) the amount determined under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for such calendar year (without regard to the provisions of paragraph (3)); or

"(B) the amount determined for calendar year 1979 under paragraph (1)(A) as the taxes which would be imposed by such section 3111 for calendar year 1979 (after application of the provisions of subparagraph (A) of paragraph (3))."

(b) Section 3111 of the Internal Revenue Code of 1954 (relating to rate of tax on employers) is amended by adding at the end thereof the following new subsections:

"(c) Certain Nonprofit Employers.—Notwithstanding any other provision of this section, in the case of an organization described in section 501(c)(3) which is exempt from tax under section 501(a) and with respect to which the taxes imposed by this section are paid, the amount of the taxes imposed by this section with respect to employees (other than employees who are primarily employed in connection with one or more unrelated trade or businesses (within the meaning of section 513) of such organization) shall—

"(1) during calendar year 1979, be equal to the amount which would be determined if the rates of tax under section 3111 and the contribution and benefit base (as determined under section 230 of the Social Security Act) which would have applied during calendar year 1979 under the law in effect immediately before the enactment of the Social Security Amendments of 1977; and

"(2) for the calendar years 1980 and thereafter, be equal to 90 percent of the amount determined under this section (without regard to the provisions of this subsection).".

(d) Notwithstanding anything herein to the contrary where the amount of taxes imposed under subsection (c)(2) above is less than the amount of taxes paid under subsection (c)(1) above, an organization described in section 501(c)(3) which is exempt from tax under section 501(a) shall pay the lesser of (1) the amount of taxes which would be imposed under this section (without regard to the provisions of subsection (d)(2)).

Mr. NELSON. I ask unanimous consent that the agreement reached yesterday for the Senator from Wisconsin to have the floor to make a motion to table be postponed for 7 minutes, until 5 minutes after 10.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, and I will not, I understand the majority leader has now indicated he has no objection. Is that correct?

Mr. NELSON. Yes.

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

Mr. DANFORTH. Mr. President, I ask unanimous consent that the remaining 7 minutes be divided as follows: I would like my 2 minutes originally agreed to, and then that the remaining 5 minutes be equally divided.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Missouri is recognized for 2 minutes.

Mr. DANFORTH. Mr. President, I would simply like to respond to the comments of the Senator from Wisconsin that his amendment does not call for any disbursement from the general fund to the social security trust fund. My original amendment did, but in order to satisfy the Budget Committee, I transformed this amendment to a simple rate reduction for this group of employers.

If successful with this amendment, I will then move into phase 2, which will be an amendment which would authorize a transfer from the general fund to the social security trust fund in an amount equal to the revenue loss as a result of the amendment which is currently pending. However, this amendment does not cause any draw on the general fund at all.

The Senator from Wisconsin (Mr. NELSON) is correct in saying that he also has a version of a proposal to provide some relief for State and local governments and not-for-profit employers. I have carefully considered his version. I think it is inadequate for at least three reasons.

One reason is that it would benefit only those employers who have fairly high-salaried personnel, which would be professional not-for-profit organizations such as, for example, foundations like the Rockefeller Foundation and the Ford Foundation.

They would have a very substantial windfall as a result of the proposal which is now in the bill. However, the Salvation Army in Washington, D.C., would only receive $7.67 back in 1979 under Senator NELSON's proposal.

I think the amendment which is now before us, if we really want to do something to cushion the blow for this group of employers, is the one which is fairest and most equitable and treats all alike, and which gives the greatest relief to that group of employers that really can stand the relief. They are the community-based organizations, such as the Girl Scouts, Boy Scouts, Salvation Army, local school districts, and the like, which do not have the extremely high level of salaries which would be benefited by the proposal of Senator NELSON. I reserve the remainder of my time.

Mr. NELSON. Mr. President, first of all what could be said about the proposal has now been said. I did not mean to imply that this proposal encompassed the Senator's general fund proposal. But it is my understanding that if the Senator prevailed, he would seek to fund the liability in the social security trust fund out of the general fund.

In principle, it is the same as the Senator's original proposal—to give eligible employers refundable tax credit of 10 percent for their total social security liabilities from the general fund.

I would make just one other point I have neglected to make in the past. That is that 30 percent of all the municipalities and States in this country are not covered by social security. So this general fund revenue-sharing program will only be giving back to those States and municipalities which are under social security, 10 percent of what they paid; but, those States and those municipalities which have their own pension plan for their employees will get nothing back. So this refund discriminates against a substantial number of municipalities, State governments, as well as others who are not covered by social security.

Mr. President, this amendment will cost $2 billion a year by 1987; the cost starts out at $1 billion a year in 1979. General fund moneys have to be paid by levying taxes on the same taxpayers who are paying the taxes for social security in the States and municipalities anyway. It is a reshuffling of funds and a dip into the general fund without having any hearings as to whether this is what we ought do and, if it is, whether this is the best way to do it.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Senator from Missouri has 1 minute remaining.

Mr. DANFORTH. Mr. President, unless Senator RIBICOFF, who is a cosponsor, has something to add, I yield back the remainder of my time.

Mr. NELSON. Has all time been used up?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. NELSON. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered on the motion to table by unanimous consent.

The question is on agreeing to the motion to table the amendment of the Senator from Missouri. The yeas and nays have been ordered and the clerk will call the roll.

(Mr. ZORINSKY assumed the chair.)

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "no."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 34, nays 51, as follows:

[Rollcall Vote No. 616 Leg.]

YEAS—34

Bellmon	Culver	Melcher
Bentsen	Glenn	Metcalf
Biden	Gravel	Metzenbaum
Burdick	Hart	Morgan
Byrd, Harry F., Jr.	Hathaway	Nelson
	Inouye	Nunn
Byrd, Robert C.	Jackson	Proxmire
Cannon	Johnston	Randolph
Chiles	Long	Sparkman
Church	Magnuson	Stennis
Clark	McClure	Talmadge
Cranston	McIntyre	

NAYS—51

Abourezk	Garn	Pell
Allen	Goldwater	Percy
Anderson	Griffin	Ribicoff
Baker	Hansen	Riegle
Bartlett	Hatch	Roth
Bayh	Hatfield	Sarbanes
Brooke	Heinz	Schweiker
Case	Helms	Stafford
Chafee	Hollings	Stevens
Curtis	Javits	Stevenson
Danforth	Kennedy	Stone
DeConcini	Laxalt	Thurmond
Dole	Leahy	Tower
Domenici	Lugar	Wallop
Durkin	Mathias	Williams
Eagleton	McGovern	Young
Ford	Packwood	Zorinsky

NOT VOTING—15

Bumpers	Humphrey	Pearson
Eastland	Matsunaga	Sasser
Haskell	McClellan	Schmitt
Hayakawa	Moynihan	Scott
Huddleston	Muskie	Weicker

So the motion to lay on the table amendment No. 1615 was rejected.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. They have been ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated and we proceed——

Mr. HATFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New York (Mr. MOYNIHAN), the Senator from Tennessee (Mr. SASSER), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

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

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 57, nays 28, as follows:

[Rollcall Vote No. 617 Leg.]

YEAS—57

Abourezk	Garn	Pell
Allen	Goldwater	Percy
Anderson	Griffin	Randolph
Baker	Hansen	Ribicoff
Bartlett	Hatch	Riegle
Bayh	Hatfield	Roth
Brooke	Heinz	Sarbanes
Case	Helms	Schweiker
Chafee	Hollings	Sparkman
Clark	Javits	Stafford
Curtis	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Stevenson
Dole	Long	Stone
Domenici	Lugar	Thurmond
Durkin	Mathias	Tower
Eagleton	McGovern	Wallop
Eastland	McIntyre	Williams
Ford	Packwood	Zorinsky

NAYS—28

Bellmon	Culver	Metzenbaum
Bentsen	Glenn	Morgan
Biden	Gravel	Nelson
Burdick	Hart	Nunn
Byrd, Harry F., Jr.	Haskell	Proxmire
	Hathaway	Talmadge
Byrd, Robert C.	Inouye	Young
Cannon	Jackson	
Chiles	Magnuson	
Church	McClure	
Cranston	Metcalf	

NOT VOTING—15

Bumpers	Matsunaga	Pearson
Hayakawa	McClellan	Sasser
Huddleston	Melcher	Schmitt
Humphrey	Moynihan	Scott
Johnston	Muskie	Weicker

So amendment No. 1050 was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

ENERGY TAX BILL

Mr. LONG. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5263.

The PRESIDING OFFICER (Mr. ZORINSKY) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. LONG. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. GRAVEL, Mr. BENTSEN, Mr. HATHAWAY, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. CURTIS, Mr. HANSEN, Mr. DOLE, Mr. PACKWOOD, and Mr. LAXALT conferees on the part of the Senate.

VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, is a vote imminent?

The PRESIDING OFFICER. It is.

Mr. ROBERT C. BYRD. On what question?

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 8175) to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 1621

(FORMERLY UP AMENDMENT NO. 1048)

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for not to exceed 3 minutes before the vote occurs.

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

Mr. ROBERT C. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. Senators will please take their seats and maintain order in the Senate.

Mr. ROBERT C. BYRD. Mr. President, the vote will occur within 3 minutes. I would not take the floor at this time but for the fact that I think attention should be called to a very significant matter.

A NEW MILESTONE IS REACHED IN SENATE HISTORY

Mr. ROBERT C. BYRD. Mr. President, the Senate is the beneficiary of numerous traditions, records, and treasures from the past. Our customs and memories unites the Members in this generation with the hundreds of distinguished persons who have been Senators in prior decades. Moreover, the milestones that are reached today will serve to enhance our continuity with the future.

Such a milestone will be attained this Sunday, November 6. On that day, the two distinguished Senators from Mississippi, JAMES O. EASTLAND and JOHN C. STENNIS, will set a new record. They will have served together as a team representing one State, longer than any other pair of Senators in American history. Their record of 30 years and 1 day will surpass the previous mark established by Senator JOHN MCCLELLAN and former

Senator J. William Fulbright, of Arkansas.

It is appropriate that we recognize this event, not just because of the longevity it represents. Senator EASTLAND and Senator STENNIS are two of the most respected and capable Members in this Chamber.

Senator EASTLAND is not only the President pro tempore of the Senate. He is the chairman of the Judiciary Committee and the ranking majority member of the Agriculture, Nutrition, and Forestry Committee. In the nearly three-and-a-half decades that he has served in the Senate, Senator EASTLAND has placed in his debt not only the people of Mississippi, but millions of other American citizens, as well. He has shared his wisdom and experience selflessly with scores of his colleagues over the years, and the lives and careers of all of us are richer and fuller for the contributions he has rendered to us.

Senator STENNIS is the chairman of the Armed Services Committee. In that capacity, he has labored tirelessly to insure the military strength and security of America and the whole Western World. As the ranking majority member of the Appropriations Committee, he has dedicated himself especially to the support of programs to improve the quality of life of rural and laboring men and women throughout this Nation. His personal courage and charm have won for him a warm and lasting place in the hearts of all his colleagues and friends.

The State of Mississippi can be justly proud of the mark and reputation that these two distinguished men have made in the Senate, and I congratulate on behalf of the Senate the citizens of that State on their wisdom in continuing to reelect and support these exceptional gentlemen over the years.

But I, on behalf of the Senate, particularly congratulate our friends and colleagues, Senator EASTLAND and Senator STENNIS, on reaching this memorable point in their outstanding careers. As Lord Chesterfield said more than 200 years ago, their accomplishments add luster to their names. And I look forward to their extending the precedents of their record even further in the years ahead.

I am pleased that President Carter has also taken note of the milestone about to be reached by our two distinguished colleagues. In a letter to me today, the President had this to say:

I am pleased to join today in honoring Senator James O. Eastland and Senator John Stennis who have served together longer than any other Senators from the same state in the history of the Republic. It is a tribute to them and to the good judgment of the people of Mississippi that Senators Eastland and Stennis have been regularly returned to the Senate throughout the 30 years that have brought such important changes to our nation.

Their support in the Presidential campaign and their help and guidance in developing my Administration's programs and policies have been particularly gratifying to me.

I congratulate these two distinguished senior leaders on the milestone they will reach on Sunday, and I wish them many more years of dedicated service to their state, their country and the United States Senate.

Sincerely,

JIMMY CARTER.

[Standing applause.]

SEVERAL SENATORS. Speech! Speech!

Mr. BAKER. Mr. President, will the majority leader yield to me a minute?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that we proceed for an additional 2 minutes.

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

Mr ROBERT C. BYRD. Mr. President, I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I shall take only a moment.

I rise, I am sure, on behalf of every Member of the Senate on this side of the aisle, to join the majority leader in extending our congratulations to two distinguished public servants, our colleagues from Mississippi.

It is in the nature of our system for the two parties to be divided in times of confrontation across the aisle, and the historic debates which have taken place over the years have been significant, lively, and important to the formulation of policy for the Republic. But seldom, if ever, has this body been as honored as it is by the presence of these two distinguished Senators, their contributions to the quality of that debate, and their care and concern for the traditions of the Senate.

Although we may disagree as to party allegiance and even on issues, we do not disagree on our respect for these two fine public servants.

[Applause.]

Mr. CURTIS. Mr. President, will the Senator yield briefly to me?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, these two gentlemen deserve special mention for many reasons.

All of us can remember how Senator STENNIS, taking his place there, probably spent 5 or 6 weeks in passing a bill relating to the defense of our country and never lost his patience and was the perfect gentleman in his conduct that prevailed throughout the time.

Senator EASTLAND has a distinction that is only shared by one other Senator. Senator EASTLAND has presided over the confirmation of every Justice of the Supreme Court of the United States, including the Chief Justice. He and my now retired colleague, Senator Hruska, have that distinction. Altogether they have handled the confirmation of something over 500 Federal judges. No other Senator has the distinction of having handled the confirmation of the entire Supreme Court.

As a matter of fact, I think when they retire there will be a temptation on the part of law firms to want to hire them.

Mr. ROBERT C. BYRD. Mr. President, I ask for 1 minute more.

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

Mr. ROBERT C. BYRD. I yield it to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to be associated with the laudatory remarks made about the distinguished Senators from the State of Mississippi. I happen to be the ranking minority member of the Committee on the Judiciary, of which Senator EASTLAND is chairman, and the senior member of the Armed Services Committee, of which Senator STENNIS is chairman.

These gentlemen are true representatives of what is best in the United States. They have both served ably, they have served patriotically, they love their country, and we are proud of them. It has been an honor for me to serve with these two distinguished gentlemen, and it has been an honor, I am sure, for the U.S. Senate to have men of this caliber, this capacity, and this courage to serve in this great body.

SEVERAL SENATORS. Speech! Speech!

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. EASTLAND. Mr. President, I appreciate the very kind and flattering words that have been said. I did not realize until yesterday that we had served so long in the Senate. It has been an experience we have all enjoyed every day, and I am very grateful to my colleagues.

[Applause, Senators rising.]

VA PHYSICIAN AND DENTIST PAY COMPARABILITY ACT AMENDMENT

The Senate continued with the consideration of H.R. 8175.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "No."

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 37, nays 48, as follows:

[Rollcall Vote No. 618 Leg.]

YEAS—37

Baker	Goldwater	Packwood
Bartlett	Hansen	Pell
Bellmon	Hatch	Roth
Biden	Hatfield	Sarbanes
Brooke	Hathaway	Schweiker
Case	Heinz	Sparkman
Chafee	Javits	Stafford
Danforth	Kennedy	Stevens
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Eastland	Mathias	Young
Ford	McClure	
Garn	Metzenbaum	

NAYS—48

Allen	Eagleton	Metcalf
Anderson	Glenn	Morgan
Bayh	Gravel	Moynihan
Bentsen	Griffin	Nelson
Burdick	Hart	Nunn
Byrd, Harry F., Jr.	Haskell	Percy
Byrd, Robert C.	Helms	Proxmire
Cannon	Hollings	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Johnston	Stone
Cranston	Leahy	Talmadge
Culver	Long	Thurmond
Curtis	Magnuson	Williams
DeConcini	Matsunaga	Zorinsky
Durkin	McIntyre	
	Melcher	

NOT VOTING—15

Abourezk	McClellan	Schmitt
Bumpers	McGovern	Scott
Hayakawa	Muskie	Stennis
Huddleston	Pearson	Stevenson
Humphrey	Sasser	Weicker

So the amendment (No. 1621) was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I would like to summarize the provisions of the compromise agreement worked out with the Committee on Veterans' Affairs of the other body. The compromise agreement contained in the pending amendment as a substitute for the House-passed text of H.R. 8175 generally follows and incorporates the provisions of title II of H.R. 5027 as passed by the Senate on September 9, except for two provisions deleted which I will discuss later.

SUMMARY OF COMPROMISE AGREEMENT ON H.R. 8175

The compromise agreement on H.R. 8175 would have a short title, the Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977, and its substantive provisions would do the following:

First. Extend until September 30, 1978, the VA's authority to enter into special-pay agreements—section 2—and provide for the retroactive payment—back to the date of appointment—of special pay to otherwise eligible physicians and dentists who are hired between October 1, 1977, and the date of enactment and who sign such agreements within 30 days after the date of enactment—section 3(c).

Second. Provide that an eligible physician or dentist who has previously entered into one or more special-pay agreements may enter into a new special-pay agreement if he or she is not in default of any payback requirements arising out of a failure to complete the first year of service under a prior agreement—section 3(a)(3) amending section 4118(e)(1) of title 38, United States Code).

Third. Provide that no special-pay agreements may extend beyond September 30, 1981—as did the House-passed H.R. 8701—and provide that an agreement entered into after September 30, 1980, may be for a period of less than 1 year as long as it is for the maximum period possible, that is, until September 30, 1981—section 3(a)(3), amending section 4118(e)(1) of title 38.

Fourth. Require the VA's Chief Medical Director to make annual redeterminations whether significant recruitment and retention problems exist as to any category of physicians and dentists with respect to which the Chief Medical Director has determined that no such problems exist—under present law, VA physicians and dentists are generally eligible to enter into special-pay agreements except for those who are included in categories of positions as to which significant recruitment and retention problems have been determined not to exist—section 3(a)(2), amending section 4118(a)(3) of title 38.

Fifth. Require the Chief Medical Director, prior to the execution of any new special-pay agreements after April 30, 1978, to reevaluate, in view of the executive level pay raise effective in the VA on February 27, 1977, the need for special-pay agreements in order to recruit and retain highly qualified physicians or dentists in each category of positions in the Department of Medicine and Surgery and to report to Congress not later than April 30, 1978, on the results of such reevaluation; and provide that the Administrator, upon the recommendation of the Chief Medical Director based upon such reevaluation, may promulgate a regulation—to become effective 30 days after it is published in the Federal Register—reducing for new special-pay agreements the amount of primary special pay for any category of positions to the extent the Administrator finds primary special pay is not necessary to recruit and retain physicians or dentists in that category—section 3(b).

Sixth. Prohibit, after January 1, 1978, the permanent or temporary appointment, in any position having direct patient-care responsibilities, of any physician, dentist, podiatrist, nurse, physician assistant, expanded-function dental auxiliary, resident, or intern who does not possess the basic proficiency in spoken and written English that he or she needs to perform those responsibilities satisfactorily—section 4(a)(1) and (2), adding new subsection (c) to section 4105 and new subsection (f) to section 4114 of title 38.

Seventh. Require the Administrator of Veterans' Affairs, upon the recommendation of the Chief Medical Director, to take appropriate steps to provide reasonable assurance (a) that persons, other than those described in the sixth item, just discussed, appointed after the date of enactment to positions having direct patient-care responsibilities have the basic proficiency in spoken and written English that they need to perform those responsibilities satisfactorily and (b) that persons listed in the sixth item, who are appointed after the date of enactment but before January 1, 1978, also have such proficiency—section 4(a)(3).

Eighth. Require the Administrator to submit to the congressional Committees on Veterans' Affairs by April 1, 1978, a report on certain language-proficiency-related matters in the health-care area. The report must describe the activities undertaken and the persons affected in carrying out subsections (a) and (c) of section 4 of the bill—the sixth, seventh, and ninth items in this summary—and must provide a description of the extent to which there are VA employees with direct patient-care responsibilities who do not have the basic proficiency in English which they should have in order to carry out their health-care responsibilities satisfactorily, and data describing the characteristics and categories of persons lacking that proficiency; in addition, if, in the administrator's opinion, the information being provided in the report indicates the existence of an English proficiency-related problem in the provision of health-care services, the report must include a plan to promote the achievement of the necessary level or levels of proficiency in English, including estimates of the cost of implementing that plan during the next 5 fiscal years and of the time periods in which the employees involved—broken down by appropriate categories and characteristics—could be expected to achieve the level or levels of proficiency that they need to perform their health-care responsibilities satisfactorily—section 4(b).

Ninth. Require, where a VA health-care facility serves a substantial number of veterans with limited English-speaking ability, that the administrator implement procedures to insure identification of sufficient bilingual staff in such a facility to bridge linguistic and cultural differences and to provide guidance to veterans and staff with respect to cultural sensitivities—section 4(c), adding new subsection (h) to section 5001 of title 38.

Tenth. For the period beginning October 21, 1976—the date of enactment of Public Law 94-581—and ending October 8, 1977—the day before the effective date of the President's most recent order adjusting the basic pay schedule for the VA's Department of Medicine and Surgery employees paid under title 38—revise (a) the basic pay schedule for the Director of Podiatric Service in section 4107 of title 38 to provide a salary range of $39,629 minimum to $50,197 maximum and (b) the clinical podiatrist and optometrist schedule in section 4107 to conform to the appropriate levels of basic pay in the physician and dentist schedule for the period October 21, 1976 through October 8, 1977; require the conversion of all podiatrists and optometrists in the Department of Medicine and Surgery from employment under title 5, United States Code, to employment in the Department's own personnel system under title 38; and provide that such conversions—including payment at the appropriate 1976-1977 levels of basic pay—

shall be effective retroactively to October 21, 1976, or the date the employee received an appointment in D.M. & S., whichever is the later—section 5.

Mr. President, as I indicated earlier, two provisions of the Senate-passed version of title II of H.R. 5027 are not included in the compromise agreement. First, title II contained a provision that would have authorized the payment of up to the full amount of special pay—up to $13,500—to VA hospital Chiefs of Staff who are full-time employees if the VA, by regulation, were to prohibit its Chiefs of Staff who are full-time employees from receiving any additional remuneration from an affiliated medical school. In addition to encouragement of full-time status, this provision was aimed at avoiding conflict-of-interest situations in which a Chief of Staff, the top-level physician hospital official, receives pay from the affiliated school with which he or she is called upon to deal on behalf of the VA on numerous professional and management issues. Although the House Committee shares our concern regarding the conflict-of-interest problems which this provision sought to remedy, it did not believe that it had had a sufficient opportunity to assess the full ramifications of this provision. Therefore, that committee chose not to accept this provision.

The second provision not included would have authorized the chief medical director, for purposes of helping to overcome problem in the recruitment and retention of full-time physicians and dentists, to make exceptions for certain categories of positions from the mandatory special-pay reduction required by section 4118(d)(1) of title 38, under which there is deducted from the special pay for eligible physicians an amount equal to the 1975 cost-of-living increase, which became effective at the same time as the pay law. As to how this deduction came about, it appears that the cost-of-living increase was deducted from the special-pay allowance to an eligible physician or dentist because Public Law 94–123 also revised the "physician and dentist schedule" in section 4107 of title 38 to codify the 5-percent comparability pay increase which became effective in October 1975. The maximum amount which would have been available under the Senate provision which was deleted would have been approximately $1,800 per year, a figure which the House Committee regarded as generally inadequate for this provision to serve as a useful recruitment and retention tool. That committee also believed that it needed more information regarding completion of such a provision and its impact.

ENGLISH-LANGUAGE PROFICIENCY

Mr. President, the English-language-proficiency provisions of the compromise agreement fully vindicate the thrust of the Senate measure; and I expect substantial progress to be made in the VA in overcoming the serious language barriers that too often exist between health-care staff and the veteran patients.

Mr. President, I would like to comment specifically on the provisions which require, with respect to certain health-care personnel appointed on or after January 1, 1978, that such personnel have the basic proficiency in spoken and written English which they need to carry out their direct patient-care responsibilities satisfactorily.

The committee recognizes that major efforts are being made by the Veterans' Administration to reduce that agency's reliance on foreign medical graduates, and urges that these efforts should be vigorously continued.

One of the major difficulties posed by the employment of foreign medical graduates is their inability to communicate effectively in English to the extent necessary to provide quality health care to the veteran patient.

The foreign medical graduates already in the Veterans' Administration Department of Medicine and Surgery—approximately 36 percent of full-time physicians and 24 percent of part-time physicians—represent a substantial proportion of the staff; and, although there is not a language barrier in every case, the committee believes that language barriers between VA staff lacking adequate English-language capability and VA patients and other staff exists to a troublesome degree and can seriously interfere with essential communications between health-care staff and patients. Imposing the English-language proficiency requirement on new appointees beginning January 1 of next year is one way of helping to overcome this problem.

Not every prospective appointee would have to pass a test. It would seem reasonable for VA regulations to assume, unless there is evidence to the contrary, for example, that persons educated for their first 12 years in this country, possess the requisite proficiency. In order to implement these provisions, the VA clearly will have to adopt standards by which it will gauge the English-language capabilities of certain prospective appointees. I would expect that the VA may choose to accept, at least initially, successful completion of the English-language proficiency test which is part of the examination provided by the Educational Committee for Foreign Medical Graduates—as that examination was modified in January 1974—as well as of the visa qualifying examination which, under Public Law 94–484, the Health Professions Educational Assistance Act of 1976, must be passed by newly immigrating foreign physicians. In the cases of certain physicians and other health-care personnel who have not passed either of those examinations, the VA should be able to administer, or arrange for the administration of, the English-proficiency test included in those examinations.

It is my understanding that an individual who has passed the English-language proficiency part of those tests is very likely to have adequate capability in reading and writing the English language and in understanding spoken English, but that that examination does not directly measure the individual's ability to express himself or herself adequately in spoken English. Therefore, I believe that the VA must address itself to the question of how to assess adequately and fairly the capabilities of prospective appointees to express themselves orally in English.

In this regard, I am confident that other government agencies, such as the Foreign Service Institute, with great experience and expertise in this area will be able and willing to provide valuable assistance to the VA. Certain tests, although not perfect, already exist to provide a starting point for determining such speaking proficiency.

Mr. President, I appreciate the fact that it may not be possible for the VA, immediately upon enactment of this measure or within the next several months, to find or develop a fully adequate instrument by which to test the English-language proficiency of its new health-care personnel. This legislation is not intended to impose upon the VA any absolute requirement that it immediately go beyond the current state of the art in the language-testing field. However, it is expected that the VA will proceed with diligence and expeditiousness—characteristics which, regrettably, have not characterized prior activities of the Department of Medicine and Surgery in this field—in consultation with those persons and agencies with expertise in this field and, within a reasonable period of time, identify or develop an effective and fair means of accurately assessing the spoken-English proficiency of its new health-care personnel who have direct patient-care responsibilities.

Moreover, Mr. President, the committee stresses that it believes the same diligence and expeditiousness are in order with respect to the development of methods for testing, and, in certain instances for personnel hired before January 1, 1978, training VA health-care workers in terms of identifying persons across the country who are qualified to test and train in English-language proficiency. There are tens of thousands of Americans around the country who have taught English overseas and there are numerous persons and experts at colleges and universities and in adult secondary education programs with considerable skill and sensitivity in this field.

Finally, the committee stresses that the period until January 1, 1978, provided at VA request to prepare to apply appointment standards for new appointees, must not be seen as an "open season" for laxity in making new appointments. Rather, the committee intends to provide greater flexibility during this gearing-up period, but only in the context of the provision in the compromise agreement that reasonable steps must be taken over this next 2 months to assure that new appointees possess the requisite communications capabilities.

Such new appointees should be explicitly advised in writing and verbally that such proficiency is a condition of their appointment and that, if there is any deficiency in this area, they will be expected to work assiduously to overcome it as quickly as possible.

Mr. President, the committee plans to monitor closely the VA's performance in this extremely important area.

CONCLUSION

Mr. President, the VA's special-pay authority expired on September 30 of this year; and I believe that it is extremely important to the VA's ability to provide quality health care services to this Nation's disabled veterans that this authority be extended, as is provided for in this measure. The compromise agreement, as I indicated earlier, contains provision for the retroactive payment of special pay to those eligible physicians and dentists who are appointed during the period October 1 through the date of enactment of this measure. Therefore, I do not believe that the VA has experienced any significant recruitment and retention difficulties up to this point. However, further delay in enactment could begin to jeopardize seriously the VA's continuing capability to provide quality care. Thus, I urge support for the agreement in the substitute amendment.

In closing, I would like to express my gratitude to the chairman of the Subcommittee on Medical Facilities and Benefits of the House Committee on Veterans' Affairs (Mr. SATTERFIELD) and the chairman of that committee (Mr. ROBERTS), as well as its ranking minority member (Mr. HAMMERSCHMIDT), for their fine cooperation and excellent contributions in fashioning this compromise agreement. I am also very grateful to my distinguished colleagues, the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Vermont (Mr. STAFFORD), and the ranking minority member of the Subcommittee on Health and Readjustment, the Senator from South Carolina (Mr. THURMOND), for their outstanding contributions and cooperation in fashioning this agreement. In addition, I would like to congratulate the several members of the House committee staff who, with diligence and great expertise, worked very hard in the development of this measure—Mack Fleming, Ralph Casteel, and John Holden, as well as the members of our committee staff—Ed Scott, Jon Steinberg, Ellen Miyasato, Louise Ringwalt, Garner Shriver, Gary Crawford, and Harold Carter.

Mr. CRANSTON. Third reading, Mr. President.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to Mr. CRANSTON'S amendment No. 1620 in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. MELCHER). The question is on the engrossment of the committee amendment and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 8175), as amended, was passed.

Mr. CRANSTON. Mr. President, I move that the title be amended.

The PRESIDING OFFICER. The question is on agreeing to amendment of the title.

The title was amended so as to read:

"An Act to amend the Veterans' Administration Act of 1975, as amended, in order to extend the authority to enter into special-pay agreements with physicians and dentists; to amend title 38 of the United States Code to modify certain provisions relating to special-pay agreements; and for other purposes."

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 8175 be printed as passed by the Senate.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that Jon Steinberg and Harold Gross may have the privilege of the floor during consideration of H.R. 9346.

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

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business.

The Senate continued with consideration of H.R. 9346.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, may I have the attention of the majority leader?

Has there been a time limit agreed to on this amendment?

The PRESIDING OFFICER (Mr. RIEGLE). The Chair advises the Senator that there has been a 1-hour time limit placed on his amendment subject to the approval of the Senator from Wisconsin and the Senator from Kansas.

Mr. NELSON. I wonder if it is agreeable to make it an hour and a half? We may yield some back. That would be divided equally. There were four or five I had not talked to who said they want to talk to it briefly. The Senator from Arizona knows what "briefly" means around here. Why not agree on an hour and a half, if there is time left, we can yield it back.

Mr. CHURCH. Will the Senator yield for a question?

Mr. NELSON. Yes.

Mr. CHURCH. Is this a unanimous-consent request being propounded?

Mr. NELSON. There is already an agreement, I understand, to limit it to 1 hour. I am asking to make it an hour and a half.

Mr. CHURCH. May I ask if that hour and a half request accommodates amendments to the amendment being offered by the Senator from Arizona?

Mr. NELSON. The majority leader tells me it does not. I have not seen the agreement.

Mr. CHURCH. Does the unanimous-consent agreement prohibit an amendment in the nature of a substitute?

Mr. ROBERT C. BYRD. It would not prohibit an amendment. At the close of the hour, the Senator could offer an amendment.

Mr. CHURCH. I place the Senate on notice that I shall have an amendment in the nature of a substitute to offer. I want to preserve my right to do so.

I ask that the same amount of time be given to the amendment in the nature of a substitute, which I shall offer, as has been given to the Senator from Arizona for the debate on his amendment.

Mr. NELSON. That would be a total of 3 hours.

Mr. GOLDWATER. Will the Senator yield at that point?

Mr. CHURCH. One hour is sufficient for me, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, Mr. President. The Senator from Kansas wants to make certain he understands what the agreement is or would be if it is approved. Can anybody advise me? There would be an hour on the Goldwater amendment.

Mr. NELSON. An hour and a half.

Mr. DOLE. With an up or down vote?

Mr. NELSON. I am not going to——

Mr. CHURCH. At the expiration of that hour and a half, or such time as is actually consumed, it is my intention to offer an amendment in the nature of a substitute, for which I would like to have an hour's time for debate.

The PRESIDING OFFICER. Is there objection?

The Chair hears no objection. Without objection, it is so ordered.

The question occurs on the amendment of the Senator from New York.

Mr. GOLDWATER. Mr. President, who has the floor?

The PRESIDING OFFICER. The Chair is advised that the Senator from Arizona has the floor, but the business before the Senate at the moment is the amendment of the Senator from New York.

Mr. GOLDWATER. Will the Chair say that again?

The PRESIDING OFFICER. The Chair advises that the pending question is the amendment of the Senator from New York. That is the business at the moment.

Mr. GOLDWATER. Before I yield the floor for that purpose, I ask unanimous consent that Bruce Thompson and John Mervin of Senator ROTH'S staff and Terry Emerson of my staff be accorded the privileges of the floor during the debate on this measure.

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

Mr. GOLDWATER. Also, I ask unanimous consent that, at the expiration of the business of the Senator from New York, I be recognized to offer my amendment.

The PRESIDING OFFICER. Is there objection? Is there any objection to the amendment being in order at this time?

Mr. NELSON. What is the request? Do I understand that the pending amendment is the amendment of the junior Senator from New York?

The PRESIDING OFFICER. That is correct.

Mr. NELSON. And what is the request?

The PRESIDING OFFICER. The Senator from Arizona has asked unanimous consent that his amendment be in order at this time.

Mr. GOLDWATER. No, following that of the Senator from New York.

I ask further unanimous consent that, following my amendment, an amendment

of Senator ROTH occur. He was so kind as to give up his place to me.

Mr. DECONCINI. Reserving the right to object, what was the second unanimous-consent request?

Mr. GOLDWATER. I asked unanimous consent that Senator ROTH be recognized following the disposition of my amendment, because he was so kind as to yield his place to me.

I recognize that my colleague from Arizona has a little problem of departure and if the Chair has no objection and he wants to say a few words about this before he leaves, I do not think anybody would object.

Mr. DECONCINI. If it please the Chair, I have an amendment I had hoped to offer after the senior Senator from Arizona offered his amendment and the Senator from Idaho offered his substitute, so I shall have to object to the unanimous consent for Senator ROTH to be considered next.

The PRESIDING OFFICER. Objection is heard.

Does the Senator from Arizona want to restate his unanimous-consent request without the provision for the Roth amendment?

Mr. GOLDWATER. No, I shall not make that request. It is perfectly all right with Senator ROTH that Senator DECONCINI follow me, and he will take his place in line.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. What is the business now.

The PRESIDING OFFICER. The Senate is not in order. Let us have order in the Chamber. Several questions have been raised and before responding, I think it is important that we have order in the Senate.

The pending order of business is the amendment of the Senator from New York.

Mr. GOLDWATER. Is there a time limit on that?

The PRESIDING OFFICER. There is no time limit.

Is there objection to the amendment of the Senator—does the Senator from Arizona wish to have the Chair put his unanimous-consent request forward?

Mr. GOLDWATER. Yes.

The PRESIDING OFFICER. Perhaps I ought to restate it. I am not sure everyone here understands.

Mr. GOLDWATER. I thought the Chair had ruled on it. I had merely asked unanimous consent that I be recognized following the disposition of the amendment of the junior Senator from New York.

The PRESIDING OFFICER. That part has been agreed to.

Mr. GOLDWATER. There was objection raised to the other part.

The PRESIDING OFFICER. Does the Senator wish, then, to amend his unanimous-consent request so that the Senator from Arizona (Mr. DECONCINI) might proceed following the disposition of his amendment, and, following that, Mr. ROTH of Delaware?

Mr. GOLDWATER. I thought that had been handled by the objection raised by Senator DECONCINI. I think we generally understand what is going to take place.

I ask unanimous consent that Senator DECONCINI be recognized following the completion of my amendment.

Mr. DECONCINI. Following the completion of the amendment of the senior Senator from Arizona and the substitute by the Senator from Idaho.

Mr. CURTIS. Reserving the right to object, I shall not object.

How long does that take us into the day?

The PRESIDING OFFICER. Is there objection, then, to the unanimous-consent request?

Mr. THURMOND. Reserving the right to object, Mr. President, I understood that I was to follow the Goldwater amendment with my amendment. I was willing to give way to the distinguished Senator from Arizona if he is catching a plane; otherwise, I shall be forced to object unless I can follow him. I think there is a chance that my amendment, if I am assured of a hearing, can go off in about 10 minutes.

The PRESIDING OFFICER. Is there objection then to the request of the Senator from South Carolina to follow with his amendment?

Mr. THURMOND. Unless my amendment can follow the distinguished Senator from Arizona.

Mr. ROTH. I will object unless mine follows.

The PRESIDING OFFICER. The Chair will put the unanimous-consent request, restate it for the benefit of the Members here, and that is that following the disposition of the amendment of the Senator from New York, the senior Senator from Arizona will present his amendment, that will be disposed of along with the substitute by the Senator from Idaho, that to be followed by the amendment of the junior Senator from Arizona, that to be followed by the Senator from South Carolina, that to be followed by the Senator from Delaware (Mr. ROTH), and that is the request.

Is there objection to it?

Mr. CURTIS. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Nebraska reserves the right to object.

Mr. CURTIS. On how many of these amendments is there time fixed?

The PRESIDING OFFICER. The Chair would advise that on only two of those amendments have there been time agreements reached. The one of the senior Senator from Arizona, which is an hour and a half, and the one of the Senator from Idaho, which is an hour. The rest are without time limits.

Mr. CHURCH. Reserving the right to object——

Mr. CURTIS. I do not want to bring problems for anybody. I am inclinded to think when this involves four or five different amendments that perhaps the leadership ought to meet with those people and try to work out something, rather than just doing as we are. But that would call for withdrawing the unanimous-consent request.

I had hoped that sometime, by 2:45, I could have a vote on my second amendment dealing with financing social security.

That is the reason before I consent to this I want to know how much time they are going to take.

Mr. GOLDWATER. If the Senator will yield, I think if he would allow the junior Senator from New York to proceed, and he says he is only going to go for 10 minutes, and then allow us to take up ours, I can assure the Senator we will not use 1½ hours and I do not believe the Senator from Idaho will use an hour. So if we will get this show on the road, I think the Senator can have his vote at 2:45.

Mr. CURTIS. Will the Senator withdraw his request and let us proceed with the Moynihan amendment and then restate it?

Mr. GOLDWATER. What is that?

Mr. CURTIS. Would the Senator withdraw his request?

Mr. GOLDWATER. No. I have been around here too long.

The PRESIDING OFFICER. The matter then is before the Senate. Is there objection?

The Chair hears no objection. Without objection, it is so ordered.

The Senator from New York.

UP AMENDMENT NO. 1051

(REPLACEMENT FOR AMENDMENT NO. 1618)

Mr. MOYNIHAN. Mr. President, I thank the Chair and my colleagues for making this intervention possible. I shall be as brief as I can.

Mr. President, the administration, on whose behalf I am offering this amendment, has made some technical corrections in the draft which I submitted last evening.

Accordingly, I ask unanimous consent that the revised amendment I am now sending to the desk be substituted for the one I offered yesterday.

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

The clerk will state the modification of the amendment of the Senator from New York.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1051.

Mr. MOYNIHAN. 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:

Strike out section 305 and substitute in lieu thereof, the following:

SECTION 1. (a) Section 402(a)(7) of the Social Security Act is amended by striking out "any" before "expenses" and by inserting before the semicolon at the end thereof the following: "which, for expenses other than for the care of a dependent child, shall be based on a percentage of not less than 15 percent nor more than 25 percent of the total of such earned income for such month, which percentage shall be established subject to methods and standards prescribed by the Secretary to assure that the percentage is related to actual work expenses, and which for expenses for the care of a dependent child shall provide an amount equal to any such expenses, subject to such reasonable limits as the State shall prescribe pursuant to meth-

ods and standards prescribed by the Secretary, to assure that the limits allow an amount which fairly recognizes the actual child care expense incurred;"

(b) Section 402(a)(8)(A)(ii) of such Act is amended by striking out "the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month" and inserting instead "the first $30 of the total of such earned income for such month plus an amount equal to any expenses which are for the care of a dependent child plus an amount equal to other expenses reasonably attributable to the earning of any such income (as established pursuant to clause (7)) plus one-third of the remainder of such income after deducting $30, plus the amount equal to any expenses which are for the care of a dependent child plus the amount established by the State for other expenses reasonably attributable to the earning of such income (as established pursuant to clause (7)).

(c) The amendments made by this section shall be effective with respect to payments under section 403 of the Social Security Act for amounts expended during calendar months after December 1977.

Mr. MOYNIHAN. Mr. President, this amendment is, in a way, a substitute to a provision in the committee bill which is now before us. It has to do with the technical issue of what is known in the language of social welfare as the earned income disregard.

In 1967, Mr. President, the Congress, in an effort to provide AFDC mothers with an incentive to work, adopted the so-called 30 and one-third formula whereby the recipients were enabled to disregard the first $30 of their earnings, plus a third of the subsequent earnings thereafter, plus actual work expenses, taxes and child care costs.

We have now had a decade of experience with this, Mr. President. But we do not seem to have any information about what have been the consequences.

Dr. Blanche Bernstein, who until recently was a deputy commissioner of social services in New York State, testified in July that it is "at least doubtful" the 30 and one-third has ever been a significant incentive to work.

The proportion of AFDC mothers in New York City, for example, who are employed, has remained stable at about 6 percent for years and the numbers that leave the welfare rolls because they obtained jobs have remained low, at about 4 percent.

I note that the percentage of welfare recipients, with jobs in New York City is about 6 percent, a figure well below the national ratio of working mothers.

Miss Bernstein writes that the "main effect" of this arrangement has been "to create a permanent class of welfare recipients for it is unlikely that most of the women who come on to the AFDC program will ever command jobs which will pay salaries substantially above the average for all wage earners."

I have spoken to the Commissioner of Social Security, Mr. Cardwell, who agrees that there is no information on the subject excepting this: We do not know that the present arrangements have made it possible to continue receiving welfare and associated benefits, such as medicaid, well into an income range where no one was indigent.

Miss Bernstein estimates that under certain circumstances persons can earn up to $29,000 a year under this formula and still receive some marginal welfare benefits, as well as retaining their entitlement to medicaid, which is not marginal at all.

There is now a general agreement that it should be changed.

The Senate Finance Committee has twice before adopted the formula which is in the present bill, which provides for a scaling down of the disregard, such that this hypothetical person with a $29,000 income is no longer eligible for it.

The difficulty with the Finance Committee's proposal is that it cuts off too much. It reduces the marginal rate of income retained, to almost nothing, and possibly, in some circumstances, to a negative rate, such that to earn $1 costs $1.05. The mathematics of these particular income formulas are discouraging and sometimes bewildering.

But because this is so and because the sole purpose of the disregard has been to encourage work, the administration proposes a substitute formula.

It works to the same objectives as does the committee measure. As much as consistency can be obtained in this world, in which one measure invariably defeats or subverts another, the administration formula does so.

Mr. President, there is no wisdom in this matter; worse, there is not even much information. The Department of Health, Education, and Welfare allows that it does not know anything about the effects of this provision one way or the other.

On the face of it, the present arrangements provide benefits to persons whom no one ever anticipated would receive them. Such is the inexorable mathematics of marginal rates of taxation, and it is the dilemma which faces all programs of this kind.

The committee bill is estimated by the committee to reduce the total cost of the AFDC program by $230 million. The administration measure would reduce it by $119 million.

I submit that there is a choice here between the amount of money to be saved; but also, I think that a reasonable person, looking at the effects of the committee measure on marginal rates of earnings, would have to agree that it has destroyed any incentive to additional earnings, and it was to create such incentives that the original formulas were adopted .

That, Mr. President, is as much as I would like to present formally, and I would be happy to answer any questions.

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

Mr. MOYNIHAN. I yield.

Mr. JAVITS. Mr. President, I support the Senator, and I shall vote for his substitute. So few of the AFDC mothers—and that is what it really comes down to—are at work. From my own experience in one of the biggest centers of that—to wit, New York City—I deeply feel it is because of lack of incentive. The rearrangement which the Senator has in mind, I believe—and I agree with him—would reduce the disincentive to work that the committee bill contains and yet maintain its provisions for simplification of administration and tightening of abuses in the area of work-related expenses.

Senator Moynihan's amendment would require States to put a cap on work-related expenses between 15 and 25 percent of gross income. This would prevent abuse of the work-expense deduction I have been in this Chamber for many years when the argument has been made about the AFDC mothers who travel to work in gold-plated Cadillacs. Aside from the administrative efficiency of a percentage, which is very great—and if there is any place where we should cut redtape, it is here—the thing that appeals to me is the fact that it can be an answer to the idea that people who are on welfare are riding to work and otherwise carrying on in some kind of luxurious style. I have heard more of that thrown at this program than anything else I know of.

I think that the Senator, by his provision, which is the administration provision, will help very materially in cleaning up that situation.

Mr. MOYNIHAN. I thank my senior colleague.

Mr. President, reserving the right to reply, I now have concluded my formal statement on the matter. I see that my distinguished associate in the Finance Committee, the revered Senator from Nebraska, has risen, and I accordingly accede.

Mr. CURTIS. I thank my distinguished colleague. He is such a charming gentleman that he starts out with considerable advantage. He can garner a number of votes beyond the merits of the proposition he is advancing. So it is with considerable timidity that I rise to oppose his amendment.

Here is the situation: There is a provision in the bill, and the estimate is that if it stays there, it will save $230 million in welfare costs. If the substitute of the distinguished Senator from New York is adopted, the savings will drop down to about $119 million annually.

It comes about in this manner. Congress wants to do something to encourage welfare mothers to work, so that they can break out of welfare and get a job. What Congress has done is this: It has said that certain earnings shall be disregarded and will not be counted against the recipient. The mother can earn that much money and still draw AFDC benefits.

The controversy is not over working or not, incentive or not. It is how much incentive, and what is the formula? The formula in the law for a disregard of earnings that do not count against the welfare recipient have proved that it needs to be rewritten and tightened up. That is the reason why the Senate Committee on Finance put it in this bill. The provision in the bill now has passed the Senate twice. It has been approved by the Committee on Finance three times. If it prevails, we save $230 million a year. If the substitute or the alternative of the

distinguished Senator from New York is adopted, it will save a lesser amount.

What is the practical effect of the two? If the committee version prevails, the top limit that anyone could earn, under any circumstances, and still be on AFDC rolls, for a family of four, would be $11,000 a year or a little more. If the amendment of the distinguished Senator from New York prevails, it will be possible in some cases for an AFDC recipient to have earnings as much as a little over $16,000 a year and still be on welfare.

Therefore, I believe that the Senate should reaffirm what it has passed on two other occasions and leave the committee language in there, for the greater saving. If it prevails, it still will be possible, under certain circumstances, the way the formula works, for an AFDC recipient to have outside earnings of as much as $11,000, and I think that is appropriate.

I do not think we should jeopardize the welfare program and cause the public scorn to focus on it and be critical of Congress because we permit a disregard of earnings for an AFDC recipient which can run as high as $16,000 for a family of four.

Therefore, I oppose the amendment, and I am ready to vote.

Mr. MOYNIHAN. Mr. President, I will respond very briefly.

First, I thank the Senator from Nebraska.

The one thing the Committee on Finance can say is that we have agreed on these numbers. The Senator is entirely correct.

The present arrangement permits earning up to the $29,000 level. The committee's measure would put a ceiling in effect of about $11,000. The administration proposed about $16,000.

The point I wish to make, and I shall not try the patience of this body to lecture on the marginal rates of taxation in the measure, is that this is an incentive program. Yet for a mother earning less than the minimum wage, earning about $85 a week, under the committee measure for each additional dollar she would earn she would retain only 13 cents.

The administration measure is scarcely more adept at its avowed social purpose. At the $330 a month level, the marginal rate of taxation is 77 percent, leaving 23 percent for each dollar earned.

There does not seem to be any way out of this arithmetical dilemma. What its consequences are, few know. But with the incongruity of the present arrangements agreed upon, the Senate faces a choice between scaling down the disregard to levels which the adminstration feels and which I feel will defeat the purpose of the program, and the amendment we offer by way of a substitute which is a measure that is considerable but yet not, as we would think, extreme.

I should now like to elaborate somewhat on my earlier remarks, which I intentionally kept brief so that the Senate could move expeditiously to the many matters before it today.

My amendment, fully supported by, and introduced at the behest of, the Carter administration, would modify slightly the Finance Committee bill with respect to the "earned income disregard." This is the element of the AFDC program that prescribes how much in the way of private earnings a welfare recipient is permitted to retain without losing welfare benefits.

It is a complicated formula and therefore all proposed revisions in its are equally complex.

As background, I shall quote from testimony offered before the House Committee on Government Operations in July 1977, by Dr. Blanche Bernstein, a widely recognized authority on welfare and, until recently, deputy commissioner for income maintenance of the New York State Department of Social Services:

> In its efforts to provide AFDC mothers with an incentive to work, the Congress in 1967 adopted the income disregard of $30 plus a third of remaining monthly income as well as actual work expenses, taxes, and child care costs. As a result it is possible for an AFDC mother with three children to remain on welfare, albeit with a small cash grant, until her income reaches $29,000 per year, and as long as she is on welfare she remains eligible for medicaid for herself and her children.
>
> It is at least doubtful that 30 and a third has ever been a significant incentive to work—the percentage of AFDC mothers in New York City who are employed has remained stable, at about six percent, for years, and the numbers who leave the welfare rolls because they obtained jobs has remained low—fewer than four percent. Its main effect has been to create a permanent class of welfare recipients, for it is unlikely that most of the women who come on to the AFDC program will ever command jobs which will pay salaries substantially above the average for all wage earners. Further, it creates a serious inequity between those who never were on welfare and those who were, to the great disadvantage of the former.
>
> The Administration has submitted a proposal to the Congress to substitute a standard deduction of between 15 and 25 percent of gross income in place of itemized expenses, plus child care costs, plus 30 and one third of remaining income after the standard deduction and child care costs. This is a substantial improvement over the present system but in my view it does not go far enough. It does reduce the cut-off point for a mother with three children from a maximum of $29,000 to a maximum of about $13,800 assuming a 20 percent standard deduction and child care expenses of $200 per month.

I would add two comments to Dr. Bernstein's reflections. First, with respect to the estimate that the proportion of AFDC mothers in New York City who are employed has remained relatively constant at about 6 percent for some years, I would contrast the fact that, nationwide, some 15,461,000 women with children under the age of 18 were working in March 1977, and that this comprises approximately 50.7 percent of all women with minor children.

As for the "incentive effect" of the present income disregard, I inquired of Mr. Bruce Cardwell, the Commissioner of Social Security, whether the Department of Health, Education, and Welfare has available any research findings on this point. He stated that, to his knowledge, no definitive information is available.

One would think this a matter susceptible to disciplined social science inquiry, but evidently the necessary research has not been done. We are, therefore, forced to make judgments based on impressions and suppositions. Yet it is not an unimportant issue. For if the earned income disregard is too generous, then persons with rather high incomes will remain eligible for welfare benefits. But if it is too stern, it seems likely that we will erode the economic rationale for welfare recipients to go to work. For if the "marginal tax rate" on earnings is too high, one does not improve one's financial situation as a consequence of working.

Practically everyone agrees that the earned income disregard in the present law is wasteful. In New York, as Dr. Bernstein has shown, it is possible, albeit not likely, for a welfare recipient to earn up to $29,000 a year before the last dollar of that recipient's benefits would vanish. And while the cash payment at those higher income levels would be small, the family receiving it would also retain full eligibility for medicaid.

We would agree that it is a mistake for the welfare program to subsidize the middle class at the expense of the indigent and the working poor. The earned income disregard must be tightened. The administration wants this to be done; indeed, that is one of the notable elements of the President's long-range welfare reform plan. The Committee on Finance also wants this to be done. The question is how much.

In my view, and that of the Secretary of Health, Education, and Welfare, the committee approach is somewhat too severe. It saves additional money, to be sure, but it does so by reducing benefits so much that whatever impetus to work may result from the present disregard would be eroded.

My amendment, which is the earned income disregard proposed by Secretary Califano last May, save for a few technical corrections, would allow a more adequate income for many of our neediest citizens.

This last is not an unimportant point. Welfare recipients bear a particularly heavy burden when the economy is in an inflationary period. Their income includes scant margin for fluctuations in the prices of essential goods and services. Surely we would not wish to modify the earned income disregard in such a way as to aggravate the hardship of a mother trying, with scant help from anyone else, to rear several small, fatherless children.

The present law allows the recipient to "disregard": First, the first $30 of his or her monthly earnings; second, one-third of all remaining earnings; third, the total amount of child care costs; and fourth, the total amount of other work-related expenses. Let us consider its effect on a typical, if necessarily hypothetical family. Since the average AFDC family in the United States, as of July 1977, contained 3.1 persons, and since the AFDC benefit guarantee level for a family of three with no other income was $261 in the median state during that same month, it is instructive to examine the impact of the

earned income disregard on such a family. Let us assume that the head of the family has earnings of $125 a week, or $500 per month, has $150 in child care expenses, and $100 in other work expenses.

Under present law, a recipient in those circumstances would be entitled to a disregard of $447, which means her monthly AFDC benefit would be reduced to $208. Her gross monthly income would then total $708, or an annual rate of $8,496.

The Committee on Finance has proposed—and the Senate has twice previously agreed—to change this formula quite drastically. Under the new formula contained in this bill, an AFDC recipient would be allowed to disregard the first $60 of monthly earnings, a limited amount of child care costs, no additional work-related expenses, one-third of the next $300 in earnings, and 20 percent of any amount earned above that level. Under the example I gave, that formula would yield a disregard of $307, assuming the entire actual amount of child care expenses was allowed, and would thus shrink the monthly benefit to $68. The gross monthly income would then be $568 for an annual rate of $6,816.

In an attempt to find a satisfactory middle ground, the administration amendment which I have offered would disregard the first $30 in monthly benefits; would disregard actual child care expenses under a limit prescribed by the Secretary; would allow 15 to 25 percent of total earnings—the actual rate to be determined by the State, under regulations prescribed by the Secretary—for other work-related expenses; and to allow a further disregard of one third of all earnings in excess of the basic, child-care and work-expense disregards. Under my example, assuming that the entire $150 in child care expenses was allowed, and assuming further that the State determined 20 percent to be the appropriate work allowance, the recipient would receive a total disregard of $353. This would leave a monthly benefit of $114, a gross monthly income of $614, and an annual income of $7,368.

I believe this is a reasonable approach. It would save an amount estimated by the Committee on Finance to be $119 million per annum, as compared with present law.

The final point I would wish to make concerns the "marginal tax rates" implicit in these two alternative formulas. According to administration calculations, if the Finance Committee bill were adopted, an AFDC recipient with earnings between $334 and $360 per month would have a marginal tax rate of 87 percent. Those earning above $360 monthly would face a marginal rate of 96 percent. Those whose earnings brought them into the range where they would be paying Federal income taxes could actually find themselves with a marginal rate in excess of 100 percent, meaning that for each additional dollar they earned they would lose more than $1 in net income.

Under the provisions of my amendment, the marginal tax rate for an AFDC recipient earning more than $333 monthly—and assuming that the State chose 20 percent as the work expense allowance—would be 77 percent. This is still high, but not absurdly so.

In sum, I regard this amendment to be a reasonable compromise between the present law, which clearly needs to be changed, and the committee bill, which I believe is somewhat too severe in this regard. I urge the adoption of my amendment.

Mr. CRANSTON. Mr. President, while I am voting for the Moynihan amendment today, I do so reluctantly and because I believe it to be less harsh in its application to AFDC recipients in California. I am concerned, however, that this amendment to the present law, governing the earned income of certain AFDC recipients, is at best an imperfect and probably an excessive solution to the problem of excessive amounts of work-related expenses that have been claimed by some AFDC recipients. The present law contains no statutory cap on the amounts of these expenses which may be deducted by AFDC recipients who incur extra costs when they take full or part-time jobs in an attempt to supplement their family's income. As a result there may have been excessive deductions in some cases; however, I do not want to solve that problem by also reducing the incentive of persons to find those extra jobs which necessarily include legitimate extra costs.

In addition I believe that this provision should be more appropriately considered as part of the administration's welfare reform proposals rather than being prejudged at this time. I hope that the conferees will carefully evaluate the full impact and appropriateness of including this provision as part of their final conference product.

Mr. MOYNIHAN. Mr. President, I have no further comments to make.

I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. 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. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Alaska (Mr. GRAVEL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 42, nays 43, as follows:

[Rollcall Vote No. 619 Leg.]

YEAS—42

Abourezk	Haskell	Metzenbaum
Anderson	Heinz	Moynihan
Bayh	Inouye	Nelson
Biden	Jackson	Pell
Brooke	Javits	Proxmire
Burdick	Kennedy	Randolph
Case	Leahy	Ribicoff
Chafee	Lugar	Riegle
Clark	Magnuson	Sarbanes
Cranston	Mathias	Sparkman
Danforth	Matsunaga	Stafford
DeConcini	McGovern	Stevenson
Eagleton	Melcher	Stone
Hart	Metcalf	Williams

NAYS—43

Allen	Durkin	Morgan
Baker	Eastland	Nunn
Bartlett	Ford	Packwood
Bellmon	Garn	Percy
Bentsen	Glenn	Roth
Byrd, Harry F., Jr.	Goldwater	Schweiker
	Griffin	Stennis
Byrd, Robert C.	Hansen	Stevens
Cannon	Hatfield	Talmadge
Chiles	Helms	Thurmond
Church	Hollings	Tower
Culver	Johnston	Wallop
Curtis	Long	Young
Dole	McClure	Zorinsky
Domenici	McIntyre	

NOT VOTING—15

Bumpers	Huddleston	Pearson
Gravel	Humphrey	Sasser
Hatch	Laxalt	Schmitt
Hathaway	McClellan	Scott
Hayakawa	Muskie	Weicker

So Mr. MOYNIHAN's amendment (UP amendment No. 1051) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

Mr. LONG. Point of order, Mr. President.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Nebraska.

Mr. CURTIS. A point of order, Mr. President. A motion to reconsider must be made from the prevailing side.

The PRESIDING OFFICER. The Senator is correct. The motion must be made by a Senator who voted on the prevailing side or by a Senator who has not voted. The motion by the Senator from New York is not in order.

Mr. CURTIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senator from Arizona is recognized to offer an amendment.

UP AMENDMENT NO. 1052

(Purpose: Relating to repeal of earnings test for individuals age 65 and over.)

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment is offered for myself and 17 other Senators.

The PRESIDING OFFICER. The amendment will be stated.

Mr. CURTIS. Mr. President, may we have order so we can hear the Senator from Arizona?

The PRESIDING OFFICER. May we have order, please?

The Senate will have to be in order so we can have the clerk state the amendment.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER), for himself, Mr. DOLE, Mr. DECONCINI, Mr. BAYH, Mr. STONE, Mr. STEVENS, Mr. THURMOND, Mr. HATFIELD, Mr. HELMS, Mr. BAKER, Mr. LAXALT, Mr. BARTLETT, Mr. DOMENICI, Mr. LUGAR, Mr. ALLEN, Mr. ROTH, Mr. PACKWOOD, Mr. RANDOLPH, and Mr. MORGAN, proposes an unprinted amendment numbered 1052.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the further reading be dispensed with.

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

The amendment is as follows:

Strike out section 121 of the Act (together with the caption thereto) and insert in lieu thereof the following:

LIBERALIZATION AND EVENTUAL REPEAL OF EARNINGS TEST FOR INDIVIDUALS AGE 65 AND OVER

SEC. 121. (a) Section 203(f)(8)(A) of the Social Security Act is amended by striking out "a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year" and inserting in lieu thereof "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable (unless prevented from becoming effective by subparagraph (C)) with respect to taxable years ending in (or with the close of) the calendar year after the calendar year".

(b)(1) Section 203(f)(8)(B) of such Act is amended by striking out "The exempt amount for each month of a particular taxable year shall be" in the matter preceding clause (i) and inserting in lieu thereof "Except as otherwise provided in subparagraph (D), the exempt amount which is applicable to individuals described in such subparagraph and the exempt amount which is applicable to other individuals, for each month of a particular taxable year, shall each be".

(2) Section 203(f)(8)(B)(i) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "the corresponding exempt amount".

(3) The last sentence of section 203(f)(8)(B) of such Act is amended by striking out "the exempt amount" and inserting in lieu thereof "an exempt amount".

(c)(1) Section 203(f)(8) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained age 65 before the close of the taxable year involved—

"(i) shall be $333.33⅓ for each month of any taxable year ending after 1977 and before 1979,

"(ii) shall be $375 for each month of any taxable year ending after 1978 and before 1980,

"(iii) shall be $416.66⅔ for each month of any taxable year ending after 1979 and before 1981, and

"(iv) shall be $458.33⅓ for each month of any taxable year ending after 1980 and before 1982.".

(2) No notification with respect to an increased exempt amount for individuals described in section 203(f)(8)(D) of the Social Security Act (as added by paragraph (1) of this subsection) shall be required under the last sentence of section 203(f)(8)(B) of such Act in 1977, 1978, 1979, or 1980; and section 203(f)(8)(C) of such Act shall not prevent the new exempt amount determined and published under section 203(f)(8)(A) in 1977 from becoming effective to the extent that such new exempt amount applies to individuals other than those described in section 203(f)(8)(D) of such Act (as so added).

(d) Subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act are each amended by striking out "$200 or the exempt amount" and inserting in lieu thereof "the applicable exempt amount".

(e) Subject to subsection (f), the amendments made by the preceding provisions of this section shall apply with respect to taxable years ending after December 1977.

(f) Effective with respect to taxable years ending after December 31, 1981—

(1) subsections (d)(1), (f)(1)(B), and (j) of section 203 of the Social Security Act, and subsection (c)(1) of such section 203 (as amended by section 411(i) of this Act), are each amended by striking out "seventy-two" and inserting in lieu thereof "sixty-five";

(2) the last sentence of section 203(c) of such Act (as so amended) is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(3) clause (D) of section 203(f)(1) of such Act is amended to read as follows: "(D) for which such individual is entitled to widow's or widower's insurance benefits if she or he became so entitled prior to attaining age 60, or";

(4) section 203(f)(3) of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 65";

(5) section 203(f)(5)(D) of such Act is repealed;

(6) section 203(h)(1)(A) of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 65";

(7) the heading of section 203(j) of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Sixty-five";

(8) subsections (f)(1), (f)(3), (f)(4)(B), and (h)(1)(A) of section 203 of such Act (as amended by section 501(d) of this Act) are each further amended by striking out "the applicable exempt amount" and inserting in lieu thereof "the exempt amount";

(9) the amendments made by subsections (a), (b), and (c)(1) of this section shall cease to be effective; and the provisions of section 203 of such Act (as otherwise amended by the provisions of this Act) shall read as they would if such subsections (a), (b), and (c)(1) had not been enacted.

In the matter proposed to be added to sections 3101 and 3111 of the Internal Revenue Code of 1954 by sections 103(a)(1) and 103(b)(1) of the bill:

In paragraph (3) strike out "5.085" and insert in lieu thereof "5.05";

In paragraph (4) strike out "5.35" and insert in lieu thereof "5.40";

In paragraph (5) strike out "5.65" and insert in lieu thereof "5.70";

In paragraph (6) strike out "6.10" and insert in lieu thereof "6.15";

In paragraph (7) strike out "6.70" and insert in lieu thereof "6.75"; and

In paragraph (8) strike out "7.30" and insert in lieu thereof "7.35".

In the matter proposed to be added to section 1401 of the Internal Revenue Code of 1954 by section 103(c) of the bill:

In paragraph (4) strike out "8.00" and insert in lieu thereof "8.10";

In paragraph (5) strike out "8.50" and insert in lieu thereof "8.55";

In paragraph (6) strike out "9.15" and insert in lieu thereof "9.25";

In paragraph (7) strike out "10.05" and insert in lieu thereof "10.10"; and

In paragraph (8) strike out "10.95" and insert in lieu thereof "11.05".

Mr. DECONCINI. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. GOLDWATER. I yield for that purpose.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Jerry Bonham, of my staff, be granted the privileges of the floor during the consideration of the pending legislation and any votes thereon.

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

Time on this amendment is limited to 1 hour, to be equally divided. Who yields time?

Mr. GOLDWATER. I yield myself such time as I may require.

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

Mr. GOLDWATER. I will yield on the Senator's time.

Mr. NELSON. Mr. President, this is a very important amendment. I believe the Members who are in the Chamber should have the chance to hear the Senator from Arizona and those in opposition. I would ask that the Chair require that there be order in the Senate Chamber and that those who are continuing to converse be requested to leave the Chamber.

The PRESIDING OFFICER. The Senator is correct. I would hope the Senators will listen to Senator GOLDWATER, and I would hope the staff members, officers and employees in the Senate will do likewise if they want to remain in the Chamber.

The Senator from Arizona.

Mr. GOLDWATER. I thank you, Mr. President, and I thank the Senator from Wisconsin.

Mr. President, before briefly explaining this amendment, I would observe that on S. 146, which is my amendment offered to the bill, I have 34 cosponsors. Senator BAYH has introduced a bill, S. 1455, which does the same thing. He has Senator HUDDLESTON as a cosponsor. We have a total now of 43 Senators who are, to some extent, committed publicly to the repeal of the ceiling.

Mr. President, the amendment would repeal the earnings ceiling on social security benefits for all persons aged 65

and over effective January 1982. The amendment is identical to the Ketchum amendment which passed the House of Representatives last week by the convincing vote of 268 to 149. Both that amendment and ours will phase out the earnings ceiling for older persons over a period of 4 years, from 1978 to 1982. The ceiling, Mr. President, will become $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981, and then be removed entirely for persons 65 and over beginning in 1982.

Mr. President, it is my feeling, and obviously the feeling of a majority of the people in this body and the other body, that the earnings test is an outrageous discrimination against more than 11 million citizens in the age group of 65 to 72.

Mr. President, if persons this age wish to continue working, they must pay a tax of 50 percent. They lose $1 of benefits for every $2 of earnings on all income earned over $3,000 until their benefits are withheld entirely.

Mr. President, let me observe at this point what we are really dealing with. We are not dealing with the funds of the general fund. We are not really dealing with the subject of money. We are dealing, in my opinion, with the subject of morality.

These are people who have paid their money into social security and their employers have matched that money, and that has been paid into social security. This is their money. I repeat: This is their money. It is not the money of the Federal Government. I do not think it is morally right for the Federal Government to say to anyone to whom it owes money, "we are not going to pay you this money unless you meet certain criteria that we set."

That is the basis of my argument, Mr. President. I do not get down into the arithmetic of the thing, although we will and we can. I am just getting down to the question of whether it is morally right for us to tell any person over 65 or any recipient of social security that that person cannot earn more than $3,000 a year without being penalized $2 for every dollar earned.

By the time they reach 65, they will have paid taxes into the system over a normal working lifetime, and their employers have paid taxes on their behalf. I believe workers are entitled to receive benefits at age 65 whether they continue working or not. Their benefits have matured by then.

I know someone will raise the objection that repeal will be too expensive, but the cost estimates never take account of the additional revenue that will result from repeal of the earnings test. Based on studies made by independent economists, I am convinced that elimination of the earnings ceiling will generate at least $1 billion in added revenues. This would offset much of the difference between our amendment and the amendment that has already been approved in the Finance Committee bill. These additional revenues will come from 2 million or more of the persons who are now staying home in order to draw their full benefits, but who will return to work after the earnings test is repealed and resume paying social security and income taxes. Since they are already drawing the full benefits, they will not cost the system one dime, but they will produce new revenues for the Government by returning to work.

The same thing can be said of the half-million or more people who have been employed but had no benefits withheld because they have deliberately kept their earnings under the ceiling so that they could collect the full amount of their social security checks. Again, these persons are already drawing benefits and they would not add any new costs to the system. But by working for higher wages, they would pay additional taxes and boost the national product.

Not only has the Government never estimated the additional taxes that will be paid by the millions upon millions of persons who will rejoin the labor force or work for higher earnings, once the income test is repealed, but it has never calculated the increased output of goods and services that will be added to the national economy by repeal of the income test. So the cost arguments used against repeal do not hold up when one looks at all of the facts.

Mr. President, our amendment is endorsed by the American Association of Retired Persons and the National Retired Teachers Association. These organizations report that they have never received so much mail on any subject as they have on this one. Mr. President, I hope that there will be an overwhelming vote for the amendment.

I ask unanimous consent to have printed in the RECORD at this point a copy of the letter I have received from the associations and a table showing the new revenues that will be raised by repeal of the earnings limit. This table has never been refuted by contrary data.

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

EXHIBIT 1

NATIONAL RETIRED TEACHERS ASSOCIATION, AMERICAN ASSOCIATION OF RETIRED PERSONS,

November 1, 1977.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: On behalf of our millions of retired mmebers, we strongly urge your support of efforts to repeal the social security earnings limitation. Over the years there has been no subject about which these Associations have received more mail and on the basis of thousands of communications from our members, there is no provision of social security law that is more unpopular.

Supporters of the test argue first that elimination is costly and secondly, that the distribution of benefits favors persons at higher income levels. We would like to take this opportunity to point out that on the basis of existing economic evidence, neither of these two arguments is obvious even within the narrow context within which they are offered. Secondly, from a broader social viewpoint, both may be simply wrong.

According to the Social Security Administration repeal of the earnings limitation for persons over 65 would cost the social security system, or more accurately the taxpayer, 2.9 billion dollars. It should be clear, however, that to have a provision in the social security system which causes people to limit their work effort, itself imposes a significant cost on taxpayers. Potentially productive people who could be supplementing their income thru their own efforts and contributing to national output are instead forced to remain idle. If only 1 million older people re-enter the labor market on a part-time basis, even earning at the minimum wage the increase in gross national product that will occur exceeds the 2.9 billion estimated cost of repeal. It should also be clear that additional workers are also additional taxpayers. Estimates of the gain in income tax receipts and social security tax receipts exceed 1 billion dollars a year. It appears quite lkely that the cost to taxpayers of continuing the earnings limitation is greater than the cost of repeal.

It is also argued that repeal of the limitation would primarily benefit the relatively higher income elderly and not older persons of low income. It should be noted that the working elderly are of higher income than their non-working counterparts solely by virtue of the fact that they work, not because they are wealthy that compared to younger workers, even the working elderly are of relatively low income and that the earnings limitation is the only "means" test in the entire social security system. More importantly, however, there is a large group of hidden beneficiaries who are of relativly low income that the supporters of the earnings limitation choose to ignore. Studies by the Social Security Administration and university economists have clearly documented the fact that large numbers of low income workers deliberately hold their earnings down and drop out of the labor force rather than bear the incredibly high 70 percent tax rate the earnings limitation imposes. Since these people do not actually have their social security benefits reduced, they are not counted as potential beneficiaries when in fact repeal of the test will permit large numbers of low income people to earn additional income to supplement and improve their standard of living.

In summary, we urge your support of repeal of the earnings limitation because it will in fact benefit large numbers of low income elderly people and because the limitation now imposes a substantial cost on taxpayers thru the loss of gross national product and tax revenues. Finally, we urge your support because we believe it to be simply wrong to tell people they cannot work as much as they choose to, to support themselves. Repeal of the limitation is supported by the public, and needed by the elderly and we urge you to do all you can to see that it becomes a reality.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

EXHIBIT 2.—INCREASED REVENUES RESULTING FROM REPEAL OF EARNINGS LIMIT AT AGE 65

	Total persons returning to work [1] (thousands)	Mean earnings [2]	Revenues (millions) OASDI [3]	Income tax [4]	Total
A. Revenues from beneficiaries presently nonworking who already receive all their benefits and who will decide to return to work:					
High estimate:					
Total	2,000		$1,014.8	$207.0	$1,221.8
Males	1,200	$6,070	736.0	180.0	916.0
Females	800	3,040	278.8	27.0	305.8
Low estimate:					
Total	1,500		784.4	155.0	939.4
Males	900	6,070	575.3	135.0	710.3
Females	600	3,040	209.1	20.0	229.1

	Total persons increasing earnings [1] (thousands)	Mean earnings over $3,000 [2]	Revenues (millions) OASDI [3]	Income tax [4]	Total
B. Revenues from beneficiaries presently employed who already receive all their benefits and who will increase their earnings above exempt amount:					
High estimate:					
Total	500		$77.4	$14.7	$92.1
Males	300	$3,070	76.7	12.0	88.7
Females	200	40	.7	2.7	3.4
Low estimate:					
Total	300		58.0	11.0	69.0
Males	180	3,070	57.5	9.0	66.5
Females	120	40	.5	2.0	2.5
C. Total revenues gained by repeal of earnings limit at age 65:					
High estimate (billions)					1.3
Low estimate (billions)					1.0

[1] The analysis takes account of the fact that the labor force participation rate of men is greater than that of women in the age group 65–71. See U.S. Department of Commerce, Bureau of Census, "Current Population Reports—Consumer Income," series P–60, No. 105, June 1977, table 49, at pp. 216–219.

[2] Source: Unpublished working paper, U.S. Department of Commerce, Bureau of Census (June 1977). For purposes of computing OASDI and income taxes, this analysis assumes the potential earnings of workers will fall within the same range as the actual range of earnings, from wages or salaries only, of persons 65 or older who were employed in 1975, as reported in such working paper.

[3] The analysis includes the combined amount of OASDI taxes currently imposed both on employees and employers (5.85 percent plus 5.85 percent) and takes account of the fact that such taxes apply only to income up to $16,500.

[4] Beginning with the 1977 tax year, taxpayers must use a new "tax table income" feature which incorporates a flat "standard" deduction and other new concepts, in order to determine their tax liability. Although the IRS has not yet published the new tax tables, the analysis projects a conservative estimate of the likely tax revenues based upon the provisions of H.R. 3477, Public Law 95–30, and assumes that earnings will fall within the same range proportionally as the incomes from wages or salaries only of persons 65 or older, as reported by the U.S. Bureau of Census for 1975.

This underestimates tax revenues since the total income of such employed older persons actually was much greater than their earnings from wages or salaries alone, causing their incomes to be pushed into higher tax brackets than those used for computations in this analysis.

Mr. GOLDWATER. Mr. President, let me really get down to what I call the nitty-gritty of this whole thing. Take myself for example. When I choose to retire, if I want to, I can collect social security benefits in the full amount. I am one of those fortunate people who worked as the head of a corporation, who has made investments, who owns real estate. I am not a wealthy man, but I am not a poor man. Yet I can live off of my dividends, my retirement from the U.S. Senate, my retirement from my corporation, my income from investments; I can receive all the money that I can and not one dime will be deducted from my social security.

Now, what is right about that? I ask the administration, that was elected, to a large extent, on the argument that they were going to do something for the people, for human rights: What is right about this massive discrimination that allows a fellow like myself to retire and collect full social security benefits, and yet say to the man or woman who was not as fortunate as I have been in life, who did not work for a company that had retirement plans, that he or she has to live on social security alone?

Mr. President, you can do it, but you are not living even off the skinny end of the hog when you do it. I know. My State probably has a larger percentage of retired people than any other State except Florida. I listen to their troubles, and their troubles are based on the fact that they cannot live under social security alone. Many of these people are still very skilled craftsmen. Many of them can use their hands and are able to work. All they ask—all they ask—is the right to do what I have the right to do, earn some money after they retire. I am not penalized; they are.

That is all this amendment of mine is about, when you really get down to it. It does not matter to me whether it might cost social security $1 billion, whether it might, as I believe, bring in another billion and a half dollars to the system and to Internal Revenue. That does not matter to me. This, to me, is a matter of fairness. It is shocking to me that the administration is using all the muscle they can get together to defeat this amendment on the floor, even though the House has overwhelmingly passed it and even though millions of Americans want this.

Now, we have correspondence on our desk from the Secretary of Health, Education, and Welfare, that is so filled with inaccuracies that, knowing Mr. Califano as I do, I am convinced that he not only did not write the letter, he has never even seen it. Let me try to talk about some of the arguments they put forth.

First of all, they say the amendment is a rich man's amendment. According to the consumer income series issued by the Census Bureau in June this year, there were only 173,000 persons of age 65 and over whose total money income in 1975 was $20,000 or more. This is only 6 percent of all older workers and even less of all older persons. Ninety-four percent made below $20,000.

Remember, this is total income. This amount includes rental income, pensions, dividends, and other income not subject to the earnings ceiling. Actual wages subject to the ceiling average about $4,500—hardly a rich person's income.

Even if we look at total family income, which includes the combined incomes of three or four or five family members, the Census Bureau report shows that only 11 percent of all families headed by older workers had combined incomes of $20,000 or more—11 percent of those people retired. So the statistics being used against the amendment, Mr. President, are all wrong. This is nothing new to this body.

It is nothing new to this Senator.

I introduced an amendment to this effect through the last three Congresses. I have never been allowed to testify on it at hearings devoted just to the earnings test. I have never been given the courtesy of that. I have heard nothing but arguments against it.

Then we decided to take the bull by the horns and introduce it as an amendment and see what would happen.

I want to further point out that even older persons with higher incomes are entitled to their benefits. They have paid the maximum payroll taxes and have an earned right to receive their social security checks just the same as other workers do.

Mr. President, those are my basic, primary arguments on this.

As noted, it is not, to me, a question of how many dollars we are talking about because the social security system already is in rather bad shape, but that does not make any difference to the person who paid his money in.

Yes, he would like to know how bad the shape is and where the money went, but we have not been able to tell him.

But that does not alter the fact that we owe that person the money he has paid in.

Mr. STONE. Mr. President, I rise in support of Senator GOLDWATER's amendment and would like to commend him for his leadership on this very important issue.

It has been said that the true test of a society is the way in which it treats its senior citizens. The earnings test, which is currently a part of the Social Security Act, has caused great physical and mental harm to older Americans. This

amendment would dispense with this unfair practice.

Under present law, the social security recipient who is between 65 and 72 years of age is denied $1 in social security payments for every $2 earned over $3,000 a year. This means that a social security beneficiary who receives the average $206.58 monthly payment loses all social security benefits if he or she earns $7,717 in a year.

This provision forces many senior citizens, who are able and willing to work, to retire or limit drastically their earnings in order to receive social security benefits. This is a terrible injustice to American working men and women who have been led to believe that social security benefits will be paid to them as a matter of right when they reach a certain age. This right is earned by years and years of payroll deductions and matching payments by employers.

In view of the continuing rise in the cost of living, we must recognize that social security alone does not provide enough money for many people to live on. We should remove the legal barrier for those who can help provide for themselves. Can we afford to waste the specialized skills of our senior citizens by discouraging them from working? Do we wish to force our senior citizens to live unproductive lives when they have further energy and ambition? I do not think so.

Congress originally intended social security to be a supplemental security program. People were encouraged to add to their social security protection through private pension plans, savings, and continued employment. At present, however, the law nearly forces people to fall into the ranks of the indigent in order to receive benefits. This bill would reaffirm Congress original intent.

Mr. GOLDWATER. Mr. President, I am going to reserve the remainder of my time.

Mr. THURMOND. Will the Senator yield 5 minutes to me?

Mr. GOLDWATER. The Senator from Texas asked me to yield first, and I will yield to him.

Mr. BENTSEN. Not on the Senator's time, because I am speaking on the other side and I do not want to impose on the Senator's time.

So I ask the manager of the bill to yield time to me, if he will.

Mr. NELSON. I am sorry, I was discussing something with the Senator from Missouri.

Mr. BENTSEN. Will the manager yield me 10 minutes?

Mr. NELSON. I yield the Senator from Texas 10 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Let me say, when I first came to the Senate I certainly supported the viewpoint of the Senator from Arizona and thought we ought to take the limitation off entirely. But I do think we are into some economic constraints that now require us to put some limitations on how far up we can go in raising this limitation on earnings.

The amendment that has been put in the Finance Committee bill is my amendment. That amendment would increase the current limitation of $3,000 to $4,500 in 1978, and to $6,000 in 1979. After that, it would increase by inflation to try to take care of it.

But one of the things that the amendment of the Senator from Arizona does not do, and that the House bill did not do, is take care of the disabled and take care of the dependents.

We would have a very substantial number of people who would still have the same constraints that we have under the present law. We would have 6 million people that would be limited to $3,300 in earnings. Six million people, dependents and survivors, that would still be under the current legislation.

My amendment takes care of that. We provide that they will come under the $4,500 in 1978, go to $6,000 in 1979.

Let me give some examples as to how far we could go in the earnings under my limitation on earnings.

At the $12,000 earning level, a couple would have benefits before reduction of $9,209. The amount that would be withheld would be $3,000. They would get $6,209.

Now, that plus their earnings of $12,000 would mean that couple get a maximum of $18,209.

Those are the kind of earnings and benefits they could have under the Bentsen amendment to the Finance Committee's report.

I think it is unfair and unrealistic to talk about forcing people to retire at 65. I believe we ought to encourage them to continue to be as active and productive as possible, and every year I get a little more enthusiastic about that position.

Sixty-five was chosen as a mandatory retirement age in the 1880's when average life expectancy was far less than it is today.

Senator CHURCH, with his committee and the studies he has made and the proposals he has made, has been one who has laid it on the line in helping people to be active and continue to be productive for several years.

As I stated, I have been on record as to eliminating that earnings limitation as Senator DOLE and Senator GOLDWATER propose it. But I changed that position because we are talking now about $1 billion addition in cost. We are talking about a 0.06 addition to the cost, the increase we have already made for the employees and the employers. It is burdensome enough as it is, and that transfer of income is going to be made from people generally of moderate incomes to those generally who are having rather substantial incomes after retirement.

Our work force currently numbers about 92 million people. Out of that number, some 88 million pay the taxes that support nearly 22 million social security beneficiaries, people over 65, widows and their dependents, and the disabled.

Our best information suggested only about 15 percent of those over 65 continue to work. Perhaps 1.3 million of those who work past the age of 65 earn more than the current exemption of $3,000. When we realize that it is $6,000, then we are talking about 650,000 people, that is how many are benefiting, 650,000 people, if we go above the $6,000 limitation that I put on it in the Finance Committee.

But I will say who we are taking it away from, we are putting additional constraints on 6 million dependents and survivors who will still be under the $3,300 limitation.

Mr. NELSON. Will the Senator yield?

Mr. BENTSEN. I am delighted to.

Mr. NELSON. The Senator is making a very good point. Not only does the amendment deprive potential beneficiaries who are at a lower retirement income than those who are benefiting, but paying for that increased cost is the worker who is earning the average wage of $10,000 a year. That worker is going to have to make up the extra cost of $1 billion a year in order to provide full retirement benefits for somebody else who is working at $20,000, $30,000, or $40,000. Doctors, lawyers, engineers, and those people are going to be permitted to draw the maximum social security retirement, which is $890 a month, or $8,400 a year rounded off.

Average wage earners are going to pay the cost of that extra billion dollars when, ironically, they themselves are working at a wage level so low they will never be affected by the removal of the earnings limitation.

I think that is the real outrage of the amendment because, as the Senator knows, those who are now working are supporting those who are presently retired.

Those working are supporting those retired. Doctors, lawyers, engineers, professors, who are permitted to work until age 70, make $25,000, $30,000, $40,000, or $150,000 a year. They contribute not a penny to this increased cost because when they were contributing to social security the retirement earnings limit was $3,000.

Under the amendment, a $10,000 a year worker is being asked to contribute payroll taxes so that a $100,000 a year income lawyer, doctor, or engineer can draw $8,400 tax free in retirement. That is an outrage.

Mr. BENTSEN. If we are talking about that kind of tax-free return—say, $8,400—that would be the equivalent of a municipal bond that we would be granting to them here today, if we voted for that, of $140,000.

Mr. NELSON. That is like giving wealthy older persons a $150,000 municipal bond, earning around 5.5 percent, so that they can draw the income from it.

Mr. BENTSEN. It is a little early for Christmas. We are just facing up to Thanksgiving. We should not be talking about Christmas this early in the year. We are talking about giving them, in effect, a $130,000 municipal bond, the equivalency of that, if we give them that kind of return.

We are talking about people being cared for rather well in this situation.

I made the point earlier that the maximum benefits paid to a couple, the benefit before the reduction, was $292. If only $3,000 of that were withheld, with their $12,000 earning, they would be up to $18,209.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BENTSEN. May I have an additional 3 minutes?

Mr. NELSON. I yield the Senator 5 additional minutes.

Mr. BENTSEN. Mr. President, I want to encourage people to continue to work past 65, and I want to encourage the widows and the teenagers to work and still get social security. But when we consider taxing 88 million people to try to get additional money to 650,000 people over 65 whose earnings exceed even the present retirement test level, I think we should think carefully about such a policy.

I believe that we should employ the limited resources available to us to provide incentives to people with lower incomes, lower social security benefits, to work past the age of 65.

The Senator from Arizona states that this will be recompensed to the Treasury because people will earn more money and pay more taxes. But the problem is that they do not pay it back into the social security fund.

So what do we have to do? We have to raise it on the people who are working today, to be able to say actuarially that the social security fund is solvent and to say to the elderly people of this country that their savings will not turn to dust; that those savings are going to be there, waiting for them, as they retire.

Mr. President, I believe that what we have done in the committee is an equitable proposal and is fair to the taxpayers. It has been endorsed by the National Council of Senior Citizens; by the Secretary of Health, Education, and Welfare, Mr. Califano; by President Carter.

The Senate has been debating the question of earnings limitations ever since 1935. The original Social Security Act stipulated that a person could not receive benefits and earnings in any one month. Then, in 1939, we liberalized that retirement test, so that a person earning $14.99 per month still could collect benefits. The law was revised 12 more times, and in 1972 we adopted the current provisions increasing the earnings limitation by the cost of living on an annual basis.

Remember, what I am talking about here is that the Bentsen amendment raises it almost double by 1979.

At no time during the 42-year consideration of this issue has Congress agreed to remove the earnings limitation entirely, and for good reason.

So I urge my colleagues to continue their traditional support for an earnings limitation; but I also urge that this figure be revised so as to provide additional incentives to people over 65 to remain in the work force, so as to allow these people to earn a more decent and productive retirement.

Mr. President, I yield back the remainder of my time to the manager of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. I yield the Senator from Kansas whatever time he requires.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Arizona for yielding.

I have listened carefully to the Senator from Texas. As one who supported his amendment in the Finance Committee, I certainly do not have any quarrel with the Bentsen amendment.

When we start tossing around figures of 6 million, or 3 million, or 2 million, I think it is well to suggest that we do not cover early retirees, age 62 to 65.

The Senator from Texas said that the disabled are not covered under our amendment. The fact is, the disabled are not subject to any limitation. If they start earning a lot of money, there may be a determination on whether or not they are totally disabled.

We do not cover minor children, and I understand that minor children make up about 3 million of the 6 million to which the Senator from Texas was alluding.

We get down to the question of whether or not we want our senior citizens, who have been paying social security tax for 40 years, to have the right to earn more money when they reach 65. That is all the Goldwater-Dole amendment does.

We have an opportunity, under the Goldwater amendment to raise the limit. The limit would be $4,000 in 1978, $4,500 in 1979, $5,000 in 1980, $5,500 in 1981 and then unlimited.

There is going to be an offer by the distinguished Senator from Idaho to gut the Goldwater amendment. He is going to take 5 years of benefits away from senior citizens.

I hope the Grey Panthers are listening as well as the National Association of Retired Teachers and the American Association of Retired Persons, when we see these efforts to cripple the Goldwater amendment, which has been in some form sponsored by some 40 Senators.

I hope that when we vote, we will look at the facts. There has been talk about the great cost of this amendment. The amendment in the committee bill, to 1987, costs $24.8 billion. The Goldwater amendment, for the same period, costs $24.9 billion—$100 million more. That is all for the next 10 years. So we are not talking about billions and billions of dollars in extra cost.

As the distinguished Senator from Arizona pointed out, these are going to be taxpayers, who will pay tax back to the Government.

Mr. President, I ask unanimous consent to have printed in the RECORD the facts and figures on the social security retirement test.

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

SOCIAL SECURITY RETIREMENT TEST

Calendar year	Goldwater-Dole amendment			Senate Finance Committee bill
	Present law	Under 65	65 and over	
1978	$3,240	(1)	$4,000	$4,500
1979	3,480	(1)	4,500	6,000
1980	3,720	(1)	5,000	6,480
1981	3,960	(1)	5,500	6,960
1982	4,200	(1)	(2)	7,440
1983	4,440	(1)	(2)	7,920
1984	4,680	(1)	(2)	8,400
1985	4,920	(1)	(2)	8,880

	Short-range costs (billions)	
	Goldwater-Dole amendment	Senate Finance Committee bill
1978	$0.3	$0.8
1979	.5	2.0
1980	.6	2.4
1981	.6	2.5
1982	3.4	2.6
1983	3.7	2.7
1984	3.8	2.8
1985	3.9	2.9
1986	4.0	3.0
1987	4.1	3.1
Total	24.9	24.8

* Excludes effect of elimination of monthly measure.
[1] Same as present law.
[2] No limit.

Note: Long-range (75 yr.) costs—House bill: 0.23 percent of payroll. Senate Finance Committee bill; 0.17 percent of payroll.

Mr. DOLE. Mr. President, if we look at the long-range 75-year costs, the House bill would be 0.23 percent of payroll; the Senate Finance Committee bill would be 0.17 percent of payroll.

I believe that once the amendment is understood, it will be accepted. As the Senator from Arizona pointed out, the earnings limitation is arbitrary.

We would tell the American working men and women who have worked for 40 years and paid into the system for 40 years:

After you have paid in for 40 years, you have to meet a means test. If you make over a certain amount, you have to pay back some of your social security.

Right now, 23 percent of all the money under the social security component goes for welfare programs for which people do not get back any benefits.

We are talking about a class of Americans who have worked all their lives and reached 65; and come 1982, Senator GOLDWATER and 40 other Senators say there should not be any earnings limitation.

If you own a bank, if you own stock, if you have investment income, you could have a million dollars a year in income and at age 65 still receive your social security. No one quarrels about that. But the argument is that this is not an income transfer program. This is a retirement program.

Why should people who have paid all their lives, who have reached 65, who still want to work, or still want to teach, or who still want to practice a profession, man or woman, be discriminated against? That is really what the amendment is all about.

So I suggest we address the problems. The earnings limitation now is about 50 percent of the poverty level; that is how low it is. The limitation deprives the economy and the work force of people who want to work. It is not enough to stand on the floor of the Senate and say that we think people should have that right. They will not have that right unless we give them that right.

That is precisely what happened in the House of Representatives. By a vote of 269 to 148, a margin of 121 votes, an amendment almost identical to the amendment offered today by the Senator from Arizona was agreed to and agreed to over the objection of the leadership; and agreed to over the objections of the distinguished chairman of the House Committee on Ways and Means—because Republicans and Democrats alike in the House understood the needs of a special class of people.

If the Senator wants to talk about figures, this amendment effects about 21 million people not just the 1.8 million referred to in some of the material made available.

The Senate recently added new protection against age discrimination in employment. I suggest that action is rather useless unless we back it up with some action and demonstrate to those of that age category that they are not the forgotten Americans. They do not have to go into the back somewhere and stay hidden from view. They are productive Americans. They have great potential. We need their assistance.

It seems to me that by having some arbitrary means test, some demeaning test, some limiting test on American senior citizens, we are saying:

You are second-class. We don't care whether you paid for 30 years, 40 years, or 45 years. You are second-class citizens.

You cannot go out and earn money because you do not meet the test that is imposed. I think we deprive our senior citizens of independence. We cause them to rely on Government. It just seems to me that it is time to take some action.

Mr. CURTIS. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. DOLE. I yield to the distinguished Senator from Nebraska for a unanimous-consent request.

Mr. CURTIS. Mr. President, I ask unanimous consent that, in the order of amendments to be called up, following the amendment offered by Senator DeCONCINI, the Senator from Nebraska, now speaking, be recognized for an amendment and the amendment of Senator THURMOND, who holds that place, follow Senator ROTH.

Mr. GOLDWATER. Mr. President, reserving the right to object, let me get it straight. It was my understanding that following the disposition of this business the Senator from South Carolina would be recognized, then Senator ROTH would follow him.

Mr. CURTIS. The Senator from South Carolina has agreed to yield to me and change places.

Mr. CHURCH. Mr. President, reserving the right to object.

Mr. CURTIS. It does not disturb the Senator's amendment.

Mr. CHURCH. I want to just add to the unanimous-consent request that following disposition of all of the amendments for which the Senator has made the request my amendment and another amendment with which the Senator is familiar relating to adjustments in benefits in inflationary years on a 6-month basis rather than an annual basis might follow in sequence.

Mr. CURTIS. Yes. My amendment, then ROTH, then THURMOND, and then CHURCH.

Mr. RIBICOFF. Mr. President, reserving the right to object, am I correct that the amendment that Senator THURMOND was going to offer was the amendment that there was going to be a short colloquy on between Senator THURMOND and myself? If that is the case, I would hope that the order would not be changed, because it will only take 2 minutes, and I may have to leave, I say to the Senator from South Carolina, before he can present it under these circumstances and I would not be able to engage in the colloquy with him, and I think he would like that.

Mr. THURMOND. Mr. President, we can take the 2 minutes right now if there is no objection. All it will take is 2 minutes. I ask unanimous consent that we bring up this amendment and take not over 3 minutes at the outside.

Mr. GOLDWATER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona reserves the right to object.

Mr. CURTIS. Mr. President, I withdraw the request.

Mr. GOLDWATER. I would suggest they take time off the bill. I do not anticipate using all of my time. I do not want to be caught in the position where my amendment is out of order.

Mr. THURMOND. I ask unanimous consent that the time come off the bill.

The PRESIDING OFFICER. There is no time on the bill.

Mr. ALLEN. Mr. President, reserving the right to object to this request, and I shall not object.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. I ask unanimous consent that amendment No. 1619 be considered after the amendments that already have priority or are disposed of.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, I add to my request. I thought it would clarify things but it is taking a little different turn now.

Mr. DOLE. Is this coming out of my time?

Mr. CURTIS. I ask unanimous consent it not be charged to his time.

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

The Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask unanimous consent that the order of amendments when we finish the pending one be any substitute offered by Senator DeCONCINI, Senator ROTH, Senator CURTIS, Senator CHURCH, and then Senator ALLEN.

Mr. ALLEN. That is all right. I just want to get on the list.

The PRESIDING OFFICER. Without objection, it is so ordered. But the Chair points out that the Senator from South Carolina is not on that list.

Mr. CURTIS. He is disposing of it now.

Mr. RIBICOFF. I thought the Senator from South Carolina wanted to handle the matter in 2 minutes and was going to ask for it now, and I ask unanimous consent he may be able to proceed without taking any time from the Senator from Kansas.

Mr. DOLE. The Senator from Kansas certainly agrees to that.

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

The Senator from South Carolina.

UP AMENDMENT NO. 1053

(Purpose: To permit military service performed after 1956 to be credited under the civil service retirement program if the civil service annuity is offset by social security benefits received for the same service.)

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes unprinted amendment No. 1053.

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

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

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . (a) Section 8332(j) of title 5, United States Code, is amended to read as follows:

"(j)(1) Notwithstanding any other provision of this section, the period of an individual's service as a volunteer under part A of title VIII of the Eonomic Opportunity Act of 1964, and the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22, shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to the individual or to his widow or child is based, if the individual, widow, or child is entitled, or would on proper application be entitled, at the time of that determination, to monthly old-age or survivors benefits under section 402 of title 42 based on the individual's wages and self-employment income. If the service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964 or as a volunteer or volunteer leader under chapter 34 of title 22 is not excluded by the preceding sentence, but on becoming 62 years of age, the individual or widow becomes entitled, or would on proper application be entitled, to the described benefits, the Civil Service Commission shall redetermine the aggregate period of service on which the annuity is based, effective as of the first day of the month in which he or she becomes 62 years of age, so as to exclude that service. For the purpose of this subsection, the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and termina-

tion of that service by the President or by death or resignation, and the period of an individual's service as a volunteer under part A of title VIII of the Eeconomic Opportunity Act of 1964 is the period between enrollment as a volunteer and termination of that service by the Director of the Office of Economic Opportunity or by death or resignation.

"(2) Notwithstanding any other provision of this section, under regulations prescribed by the Civil Service Commission with the concurrence of the Secretary of Health, Education, and Welfare, in any case where an individual performed military service (except military service covered by military leave with pay from a civilian position) after December 1956, and he (or his widow or child) is or becomes entitled, or would on proper application be entitled, to monthly benefits under section 402 of title 42 based on his wages and self-employment income, the Civil Service Commission shall exclude from the annuity payable to him (or his widow or child) under this subchapter an amount equal to that portion of the monthly benefit (to which he or his widow or child is entitled under section 402 of title 42) which is attributable to his military service.

"(3) The Secretary of Health, Education, and Welfare, on request of the Civil Service Commission, shall inform the Civil Service Commission whether or not the individual, widow, or child described in this subsection is entitled at any named time to the described benefits.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply only in the case of annuities to which individuals become entitled on or after the date of the enactment of this Act.

(2)(A) Upon the written request to the United States Civil Service Commission (filed in such form and manner and containing such information as the Civil Service Commission shall by regulation prescribe) by any individual receiving an annuity before the date of the enactment of this Act to have the amendment made by subsection (a) apply to such annuity—

(i) the provisions of section 8332(j) of title 5, United States Code, as amended by subsection (a), shall apply to such annuity, and

(ii) the Civil Service Commission shall recompute such annuity by redetermining the aggregate period of service on which the annuity is based so as to include military service excluded under such section 8332(j) as in effect on the day before such date of enactment.

(B) Any annuity which is recomputed under subparagraph (A) shall be effective with respect to payments of such annuity for months after the month in which this Act is enacted and no payment of any such annuity for any month prior to such month shall be considered erroneous by reason of this paragraph.

(C) The Civil Service Commission shall take such actions as may be necessary to notify individuals receiving an annuity before the date of the enactment of this Act of the provisions of this section.

Mr. THURMOND. Mr. President, it is disappointing to note that the new social security bill fails to deal with a problem caused by the current social security law, known as Catch-62. It is the enforced loss of sizable amounts of retirement income beginning at age 62 for veterans who combine their military and civil service time for retirement from Federal Government.

The term Catch-22 came into our language after World War II. It describes a situation from which there is no escape. In 1956, Congress, in passing a modification to the social security law to include the uniformed services, inadvertently created what has come to be known as Catch-62. I am proposing an amendment to correct this injustice.

Mr. President, Catch-62 applies only to veterans, and not just military retirees, who later retire from being employed by the Federal Government. Like other Federal employees, veterans can elect retirement at 55 and count all service to the United States for retirement, but at age 62 they lose credit for their military service after 1956.

These veterans find themselves caught between two different Government retirement systems. Their problem stems from being forced to contribute to social security after 1956, while in military service at relatively low pay, but being prevented from earning social security credits while in Federal employment at higher wages.

Mr. President, the social security bill before us fails to address this problem. Although a corrective amendment was germane to the House bill, the House Rules Committee restricted amendment actions. Testimony by experts in the House Ways and Means Subcommittee supported corrective action. Correction of this inequity is long overdue. Although the executive branch of the Government has not developed detailed costs of this measure, previous reports indicate that costs would be nominal.

Mr. President, I am confident that my distinguished colleagues would like to go on record in supporting this amendment to remove a grossly unjust provision of the law which singles out a certain group of veterans to penalize, because they paid to the social security program. I am strongly in favor of the social security program being put on a solvent basis, but I am not in favor of a certain group of veterans being penalized to help the social security program from going bankrupt.

My amendment would remedy this inequity by providing that a veteran face no loss of income when he reaches age 62. Under my amendment, the veteran would receive a social security check, but his civil service annuity would be decreased (or offset) by the amount of social security received. This is not a double-dip. The retiree would receive the same amount of compensation as he did prior to his 62d birthday—no increase or decrease.

The following organizations support an amendment to correct an inequity in the social security law which discriminates against veterans who work for the Government:

The National Association for Uniformed Services (NAUS),

The American Federation of Government Employees (AFGE),

The American Association for Retired Persons—the National Retired Teachers Association (AARP-NRTA),

The Fleet Reserve Association (FRA),

The Retired Officers Association (TROA),

The Air Force Sergeants Association (AFSA),

The Diplomatic and Consular Officers Retired (DACOR),

The Disabled American Veterans (DAV),

The National Association of Rural Letter Carriers (NARLC),

The Marine Corps League.

It has been reported to me that the Department of Defense supports this measure.

In the House of Representatives, Congressman CHARLES E. BENNETT has introduced similar legislation. His bill, H.R. 767, has considerable support in the House.

It is my understanding that the Honorable THOMAS P. O'NEILL, the Speaker of the House, has committed his support when H.R. 767 is reported favorably by committee to the House.

Mr. President, I strongly urge unanimous approval of this amendment.

Mr. RIBICOFF. Mr. President, the amendment which the Senator offers is not related directly to social security. Instead, it is an amendment to title V of the United States Code which is properly in the jurisdiction of the Committee on Governmental Affairs. Earlier this year the Senator introduced a bill, S. 245, which would accomplish the same purpose as his amendment. I am told by the junior Senator from Tennessee (Mr. SASSER), who is necessarily away today, that he would hold hearings on the Senator's bill in the course of studying other retirement-related legislation.

The amendment which the Senator offers would credit an individual's years of military service after 1956 toward civil service retirement rather than social security retirement. Under current law, time spent by Federal employees in the military service before or during their Federal employment is generally creditable service under the civil service retirement system. Employees make no contribution to the retirement fund to cover their military service time even though the same amount of retirement credit is granted for years in the military as for years of civilian employment during which contributions are made.

Since January 1, 1957, military members have been required to make social security contributions from their pay. If a civil service retiree become eligible for social security benefits his civil service annuity is recomputed and his military service after December 31, 1956, is excluded from the annuity computation. The law, in effect, requires that military service performed after 1956 be credited to social security when a retiree is eligible for benefits under both programs.

I am concerned because of the lack of information available as to the number of Federal employees who would potentially be affected by this amendment. The estimates which we have from the National Association for Uniformed Services is anywhere up to 112,000 Federal workers. These individuals would be able to credit their years of military service toward civil service retirement without having made the required contributory payment to the retirement fund. Therefore, we have no information available with which to judge the potential effects on the unfunded liability of the civil

service retirement fund. They could be substantial.

I know the Senator shares my concern that we should have these facts before we take action. I want to emphasize that I, too, am concerned that Federal employees who have served in the military receive equitable retirement benefits. For this reason, if the Senator is willing, I would ask the Senator from Tennessee to hold early hearings on his bill in the next session. Hopefully, the hearings will produce a body of testimony to support the Senator from South Carolina's proposal.

Mr. THURMOND. Mr. President, in view of the statement and assurances by the able and distinguished Senator from Connecticut, I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1052

Mr. DOLE. Mr. President, the charge is going to made time after time, and I can hardly wait for the Senator from Wisconsin to make it because he does it so eloquently, that this is a rich man's amendment. That is one way to divide some on the Senate floor. According to the Consumers Income Series issued by the Census Bureau this year there are only 173,000 persons 65 years and over whose total money income in 1975 was $20,000 or more. This is only 6 percent of all older workers who earn income. Ninety-four percent made below $20,000. This is total income. That includes rental income, dividends, interest, pensions, and other income not subject to the ceiling. Actually wages subject to the ceiling average about $4,500, hardly a rich person's income.

If we look at the total family income, which includes the combined incomes of three or four family members, the Census Bureau report shows only 11 percent of all families headed by older workers had combined incomes of $20,000 or more for all families who had earned income. So statistics which may be used against this amendment are not correct.

Let me also point out that Members of Congress are not subject to the social security system. The President of the United States is not subject to the social security system. The Vice President is not subject to the social security system. Members of the Cabinet are not subject to the social security system. So we pass in judgment and make the policy although Congress is not even part of the system. We do not understand all the complexities and all the down sides of the system. We do not have any earnings limitation. The Senator from Kansas may offer an amendment later on today which would put Members of Congress and members of the Cabinet into this system. I make the point now to underscore the fact that 40 some Senators have cosponsored this principle. I would only repeat those for the RECORD who have either cosponsored Senator GOLDWATER'S measure or have in the past introduced or cosponsored similar legislation.

The list of distinguished Senators includes myself and Senators SCHMITT, ALLEN, DANFORTH, HELMS, HANSEN, CASE, JAVITS, DECONCINI, HARRY F. BYRD, JR., HATFIELD, JOHNSTON, STEVENS, THURMOND, CANNON, PELL, MAGNUSON, STONE, BARTLETT, YOUNG, MORGAN, LAXALT, DOMENICI, NUNN, RIBICOFF, STAFFORD, LEAHY, ABOUREZK, WEICKER, GARN, INOUYE, CHAFEE, LUGAR, HUDDLESTON, BAKER, ROTH, PACKWOOD, and BAYH.

So that is a fairly representative group—Republicans, Democrats, conservatives, and liberals—to indicate that there is rather widespread support for what Senator GOLDWATER seeks to do today.

So, Mr. President, I would hope that when the time comes when there is an effort to gut the Goldwater amendment by the Senator from Idaho, we can successfully lay that effort on the table.

I yield back the remainder of my time.

Mr. MOYNIHAN. Mr. President, will the Senator from Wisconsin yield me 10 minutes on the bill?

Mr. NELSON. I yield the Senator from New York 10 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have just completed action on a welfare measure which is part of the bill before us, and has to do with the amounts of earnings which welfare recipients, in the main mothers, are able to keep as an incentive to work before they begin losing benefits, and until they have finally lost their benefits altogether.

It was agreed that the present arrangements are too generous, and the Senate moved to restrict them. In that context I offered an amendment which would have enabled the so-called earned income disregard to continue in effect until a medium range of earnings.

The distinguished Senator from Nebraska pointed out on this floor, and I agreed with him, that the proposal as made would make it possible, under certain hypothetical settings, for a welfare recipient to earn up to $16,000 and still receive welfare benefits.

This, I think, was a point made—I conceded the fact because it is a fact, but I found great difficulty explaining how such a fact could be to Members on the Senate floor, and indeed my amendment failed.

I have a moment now to suggest, however, a curious harmony, a curious symmetry; because once again we are talking about a situation in which the pensions we might make available under this bill would be available to persons whose income is in that range.

As we know, we are talking in this case, about persons whose average income would exceed the $6,000 limit which Senator BENTSEN has proposed. We are talking about a class of persons whose income is $17,000 on the average—curiously close to the hypothetical welfare family whose income might be $16,000. So we have moved from the subject of welfare for the poor to the subject of welfare for the rich. That is a term I do not often use. I find that the formulation is rather too easy and is, perhaps, too frequently used. But since the thought is conceivable, welfare for the rich as a reality appears to be before us now in a very explicit form.

We just defeated, Mr. President, a measure involving the earnings disregard, on the ground that welfare benefits should not continue to the level of $16,000 of income. But let us remember what the welfare payment to a mother earning $16,000 would be. The last benefit on the declining scale would be $1. It is, however, a dollar, and there were many who found that an inappropriate arrangement, and my amendment lost.

The next amendment would provide benefits to a group of persons of comparable income. We are not in the least appalled that they might get, not a dollar of welfare, but, being of an age over 65, we are proposing, on an average, to give such persons $8,400.

We just reeled back in horror at the thought of a welfare mother receiving $1 if her income is $16,000; and we now move, right on top of that, to give $8,400 to other persons whose incomes average $17,000.

Mr. President, there is a disharmony between these acts. There is a symmetry of circumstance, and I would argue that if it seems so unworthy to provide such largess to the welfare recipients, how could it not be equally inappropriate to do so for persons who, by definition, are not in any financial difficulty?

I would like, Mr. President, to make two points here. The question is, are people automatically entitled to receive back the contributions they make to the social security fund? If, Mr. President, this is an insurance system, it insures against loss of income, and it is inherent in most insurance propositions that the most fortunate do not ever have to claim benefits. Yet in social security, persons who never lose their incomes to a level below that which we can consider the minimum have had, since 1935, total claim on the insurance that they have paid for by contributions to the social security trust fund.

But a second point, and perhaps a most important one, is to be clear—maybe this is an inopportune thing to say, and I ask the Senator from Wisconsin to forgive my bringing the subject up, but surely no one is under any illusion as to the origin of the benefits we are adopting. The decision we have made to go to a system whereby employers pay a very much larger share than employees we have justified ourselves on the ground that employers can deduct it from income taxes, and in a very real sense there may be a very large decline in the income tax revenues of the Federal Government from the graduated income tax under those circumstances. One of two things will happen: There will be less money available for other programs, or taxes will have to be increased to replace that which has been lost owing to contributions to the trust fund.

Mr. President, it does not stretch reason or fact to say that these increased benefits are going to be paid out of income taxes that may be greatly reduced as a result of the impact of this measure on the American political economy.

If you were to ask the political economists, "What will be the single place

most affected by this decision?" they would say, "Internal revenues of the United States." We are proposing, in a 5-year period, to take $23 billion, in effect, out of the income tax system and transfer it to a very small group of persons who are comparatively well off.

It is an extraordinary measure. A Senate which reeled back in some alarm that a welfare family might receive a dollar—one dollar—goes on with much enthusiasm to provide the well-to-do older persons in this country with an extraordinary transfer of wealth from the working population at middle-income levels to this retired, but still active, older population of high-income levels.

Mr. President, I do not know how we are going to explain this if we do it. I can think of persons right now in New York City who would be very distressed if they were to hear me making this speech.

I can tell you who would benefit from this measure in my city. Take the five most senior partners in the 50 largest, most prosperous Wall Street law firms. There is $8,400 more per year in it for every one of them, tax free. They are not very much interested in this legislation. But they would benefit.

Find me a 65-year-old partner in Cadwallader, Frisbie, Humphrey, and Splink, and here we come, $8,400 tax free. If that is not welfare for the rich, Mr. President, I want a more convincing illustration of the proposition.

I have sometimes disdained those people who claimed that such things went on because I thought their imaginations were perhaps incorrect in the matter. I must say I rise in tribute to life imitating rhetorical art.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. GOLDWATER. I yield to the Senator from South Carolina, Mr. President.

Mr. THURMOND. Mr. President, I join the distinguished Senators from Arizona and Kansas and other Senators in their effort to phase out the present restrictions on outside earnings by social security recipients over the age of 65.

Mr. President, there is no question as to the impact of this limitation. Many older persons are being pressured into not working for fear of losing their benefits. As a result an untold amount of valuable skills acquired through many years of hard, honest work are totally lost to our country.

Such a limitation is in direct contradiction of a fact widely accepted by the Federal Government, gerontologists, and others concerned with the health of the elderly. That fact is that the hiring and retention of older workers in all aspects of the economy is very "good medicine" for the elderly. It should be encouraged in every way possible, and removing this limitation is one way to accomplish this objective.

Mr. President, in my opinion, this aspect of the social security system is extremely inequitable. Investment income is not recognized when determining whether an individual's social security shall be reduced. This allows a wealthy man who received thousands of dollars a year in interest income to collect his full social security benefits. However, the average man who never had the time, much less the money, to enter the world of investments, and who might need to continue working in order to insure the economic survival of himself or his family, cannot work without being subject to this penalty. This is simply not right.

Still, it is argued by opponents of this amendment that repeal of the limitation would primarily benefit the relatively higher income elderly, and not older persons of low income. We must recognize that the working elderly are of higher income than their nonworking counterparts solely by virture of the fact that they work. Compared to younger workers, even the working elderly are of relatively low income. More importantly, there is a large group of hidden beneficiaries that the supporters of the earnings limitation choose to ignore. It is a well documented fact that large numbers of low income elderly deliberately hold their earnings down and drop out of the work force rather than bear the incredibly high tax rate the earnings limitation imposes. Since these people are not currently having their social security benefits reduced, they are not counted as potential beneficiaries when in fact repeal of the test will permit these people to earn additional income to supplement and improve their standard of living.

It is said that removal of the earnings limitation will be too costly. In my opinion, this begs the question. The people who receive social security are the same citizens who have worked hard all their lives for their salaries. They have not been on the welfare rolls. These people are the backbone of America—they are the men and women who believe in America and have quietly and loyally contributed their fair share to the social security program all their lives. To deny them the fruits of their labors now, when they need it most, is not only illogical, but unjust.

Mr. President, let us remove this obstacle which stands in the way of thousands of our senior citizens who want to work. Work produces income and income produces tax revenue. Work contributes to the good health of our senior citizens who have many valuable skills to contribute to this country. Removal of the earnings limitation is an equitable and reasonable step.

Mr. President, I urge my colleagues to carefully consider this measure, and to join me and others in this effort to bring meaningful reform to the social security system.

Mr. GOLDWATER. Mr. President, I think the time situation is about 20 minutes on each side.

The PRESIDING OFFICER (Mr. ALLEN). The Senator is correct.

Mr. GOLDWATER. Mr. President, I yield myself 5 minutes.

Mr. President, I have not heard anything said in opposition to my amendment which I feel is the least bit convincing. To answer a probable charge the Senator from Texas made, that if we lift the earnings limitation those people who are 65 who care to go to work will be freeloaders, no, that is not correct. They will have to pay social security taxes just as the younger people, and their employers will have to pay their part of social security. We are not doing anything to upset the applecart. As the Senator from Kansas pointed out, over a 10-year period there is probably $100 million difference involved in about a $24 billion to $25 billion figure.

Mr. President, I get back to my argument. This is a moral argument. The average social security benefit for a retired worker is $230 per month. The average for a couple, both receiving benefits, is $400 a month.

Is anybody going to stand up and say this is a living income? I can tell my colleagues on this floor who may not be aware of it—though I imagine they are—that many, many social security recipients are receiving food stamps. Do they want to? No, they have to, in order to live. Giving these people the chance and the right to work, the chance to use the skills they have acquired during a lifetime, will not cost anybody any money. It is going to relieve the people of the difficulty of trying to live on social security money alone and allow them to raise their heads as they have done all their lives in paying this money.

This is not money that we are giving them, Mr. President. This is money that they have paid into the kitty. Where that kitty is does not seem to make any difference, but this is money that is owed the American worker. I repeat what I have said earlier: I do not think we have the moral or even the constitutional right to say, "Yes, we owe you this money but we are not going to pay it to you."

If the U.S. Government is going to take that attitude, I do not think they are going to have the respect of the American people too long.

Mr. President, I will just remind my colleagues we have recently completed an action on age discrimination that encourages people to work until the age of 70. If the earnings ceiling is not repealed, we will penalize these persons who remain in the labor force until age 70 by depriving them of their social security checks.

We are talking about what is fair and what is right, and what is moral. My whole argument is based upon these elements. I have not heard a single argument raised against that argument.

Mr. NELSON. Mr. President, I think we have heard about every argument on each side of this issue. What I will say briefly will be repetitious for emphasis.

I point out that the reference was made by Senator BENTSEN earlier that the National Council of Senior Citizens is deeply concerned about the retirement problem in this country.

It is their full-time concern. It was, until recently, headed by Nelson Cruikshank, and there is no more distinguished gentleman in this field. They made a statement in March on this question in a pamphlet on the retirement test in social security. Here is what this group, representing a large number of retired people, had to say. Obviously, I

need not suggest that they are not against retirees. That is whom they represent. From that pamphlet I quote just one brief paragraph:

It would appear evident that the elimination of the retirement test in the social security program is neither practicable nor desirable, since it would help a relatively small number who are least in need and deprive a very large number, including those most in need, of the benefit of possible improvements in the program.

There is simply no doubt about that. If we eliminate the retirement test entirely, the cost is $4 billion a year when it is totally eliminated. That compares with a cost of $3 billion a year under the $6,000 retirement earnings limitation that the Committee on Finance has sent to the floor in its bill. When average wages rise, so will the $6,000 earnings limitations under the committee bill.

That extra $1 billion should, in my judgment, be used to help those who are in the lower retirement and average retirement levels.

Now, the statement is repeatedly made that those people who have retired earned this income; that those who are over the retirement limitation level earned their pension, and, therefore, should receive it. As Senator MOYNIHAN has pointed out, this is not an annuity program; it is an insurance program.

Of course, it can be converted. That is what is about to happen here if the amendment prevails. Under an ordinary insurance program in which you buy your own annuity, if the owner of the annuity dies, that money goes to the estate—whether it is a first cousin, second cousin, whatever relative may be left. Here, if there is no beneficiary of that retiree who dies, the money remains in the fund. If there is no dependent, it is not taken out of the fund and put into an estate that ultimately goes to first and second cousins; because that was not the purpose of this social insurance program.

If we want to convert it to an annuity program, we can. But those who have been saying social security taxes are horrendous would face a payroll tax increase much more substantial than we already have if we approve this amendment.

It was not the intent of the designers nor was it the purpose of the social security law to have an annuity program. Every Congress since 1935 has recognized this.

The liberalization in the committee bill is quite dramatic—a doubling by next year, from $3,000 to $6,000, which will be tied to the increase in average wages. By 1987, the retirement test will be about $10,000.

We must recognize that this is not an annuity program, that it is an insurance program. Its purpose is to help replace lost income when people quit working. There are 650,000 people in America who are over 65 and who are earning enough income so that they will lose some or all of their retirement benefits. Under the committee bill, you can earn $22,000 before you lose all of your retirement benefits under the $6,000 limitation if you are married and receiving maximum benefits. And $22,000 is better than twice the average income of the worker who is supporting the system.

That doctor, that lawyer, that engineer, that professor, that professional man, that manager of his little plant or that manager of some little industry, who is now 65, never contributed a single penny to the cost of lifting totally the retirement earnings income limitation. His contribution was based upon a cost in that fund of supporting a $3,000 limitation, not no limitation at all. Now, since he did not contribute to the cost of that limitation, we should not now provide that we will lift it and leave it to somebody else to pay the bill.

I want to see the Member of Congress who is prepared to stand up in a public forum in any city or any community in this country and say, "Yes, that lawyer of that distinguished law firm, Mr. Jones, who is 67 years old and making $150,000 a year practicing law, we have lifted the limit for him. He was not entitled to any social security retirement under the current law; but we lifted the earnings limit so we are going to give him $8,400, tax free on top of his $150,000. You fellows and women, working down in that plant getting $10,000 a year, are going to pay for it."

What kind of income transfer is it that takes from the poor and gives to the rich?

Mr. MOYNIHAN. Will the Senator yield?

Mr. NELSON. Yes.

Mr. MOYNIHAN. I rise to support the Senator's proposition and say, with respect to the average citizen who might want to ask this question of one of his legislators, that he need not make it a generalized question like: Did you give all this money to some rich people? It is not hard to know who these people are. He need simply inquire of any lawyer, what are the five largest law firms in town, and get the names of every partner who is over 65. He will know what man in Kansas City, or what man in New York City got the $8,400.

It need not be an anonymous transfer of funds from uncertain origins to vague and confused destinations. You can know by name. Find a rich, successful, active lawyer over 65, and this bill gives him $8,400 a year, tax free.

We shall find an extraordinary correlation, I suggest, between those Senators who will have just voted not to allow a welfare working mother to get $1 and those who went to the very next amendment and voted that the most successful lawyers in town be given an income of $130,000 in tax-free municipal bonds.

Mr. NELSON. I suggest to the Senator that maybe the answer is there is a distinction between the worthy and the unworthy in this society and that the richer you are, the more worthy you are.

Mr. LONG. Will the Senator yield at that point?

Mr. NELSON. I yield.

Mr. LONG. Let me ask the Senator, in view of the fact that we still have a 70-percent tax bracket—and I think that is too high, but that is where it stands—for a man making $150,000, assuming his dear wife was called to meet her reward ahead of him, and he is in a 70-percent tax bracket, how much would he have to make?

Mr. MOYNIHAN. To get the $8,400?

Mr. LONG. To get the $8,400, yes. Can the Senator tell me, he has staff assistants to help him, would the Senator say how much that fellow has to make?

Mr. NELSON. Around $30,000—$28,000 to be exact.

Mr. LONG. So what would be done——

Mr. NELSON. That is at the top of the bracket.

Mr. LONG. Say he is a senior partner in the law firm. He would have to win himself a big case, or maybe do something to make the law firm make some dollars. How much would he have to increase his income to net $8,400?

Mr. MOYNIHAN. $28,000.

Mr. LONG. He would have to increase his income by $28,000 to get what this amendment would give him. He would get $8,400, tax free.

Let me ask, at the time this fellow found himself in the social security program, did the program promise him this equivalent of $28,000 a year income?

Was that a promise that was in the program when he became part of it?

Mr. NELSON. No.

Mr. LONG. So this is what we call a windfall benefit. It could be compared to the double dip some people got that we are eliminating in this bill.

When we enacted social security, nobody promised anything like that, but someone came along with an amendment that always causes people to say, "Why did we do that, why on God's green earth would Congress do something like that?"

Nobody promised this fellow $28,000 and suddenly, one day, somebody got up and said, "Well, I think everybody ought to get it."

This reminds me somewhat of the amendment that my dear friend, the late Winston Prouty, offered here one time. He came up with the idea that anybody who was not getting a pension ought to get one. He came up with the "shoot-the-moon" amendment, as I called it, that anybody not getting a pension ought to get one.

It looked as though it would carry until I began to explain that his amendment would cost a trillion dollars. He said it could not possibly be a trillion dollars, and I said that was a minimal figure, a trillion dollars.

Under that amendment, Mao Tse-tung would get the pension, Charles de Gaulle, Nikita Khrushchev, people we do not know exist in darkest Africa, or in Asia, would get the pension, people we never heard of would get the pension. For all we knew, some Eskimo at the North Pole would get it if he found out it was offered in the United States, because the amendment failed to require that people be citizens of the United States to get the pension. Just anybody who was not getting a pension from this Government would get one. Anybody.

Fortunately, that was one little correction that, thank the merciful Lord, somebody brought to our attention.

If the Senator from Louisiana had not been here to direct attention to that fact, this Nation would be beneath the Atlantic Ocean now, the Atlantic and Pacific would have met. We would have been completely destroyed because the amendment promised pensions to everybody on God's green Earth automatically, even if he had not put a nickel into it.

But at least we have this much explanation for how that happened. That was done because nobody had thought about the matter. They just had not thought the amendment out that carefully.

But here we are today and say, "Why in the world did they give old Ben Brown, who was already making $150,000, the equivalent of $28,000 of additional income that nobody promised him?"

He did not ask for it, did not vote for it.

Like some people that got the Prouty pension thought you were a fool to do it. Why would you want to do something like that?

I know if we send them the money, they will not insult us by sending it back. But at the same time, they wonder why we would do something like this.

Here is an enormously wealthy person trying to figure out how to leave some money to his children or his grandchildren, spending more time on that problem than anything else, and somebody wants a way to give him the equivalent of $28,000 additional income, $8,400 tax-free.

It just absolutely makes one wonder. One would wonder when we have all this munificence to bestow on somebody, all this largesse, why did we not think about this poor old soul that was not getting much to hold hide and hair together—why not increase his pension a little, rather than give it to that lawyer?

How many lawyers is the Senator aware of who are senior partners in the firm, the guy whose name appears first on the door, how many of those people does the Senator know who have petitioned him to do this for them, is he aware of any?

Mr. NELSON. No, but if they think of it, they will.

Mr. LONG. Well, I do not know. I have not had one call. I would be willing to consider voting for this if one of my friends who is a senior partner in one of the firms could call and say, "Well, I've been discriminated against, treated badly, I think I ought to have this."

But I am not aware of anybody that expects it.

Of course, I must say that sometimes the best politics is not to give somebody something he has a right to, or a right to expect, because people like that do not appreciate it as much.

If we find something to give somebody who has no right to expect it, makes no sense whatever, sometimes those people are more grateful than the people that actually had a right to expect something.

Mr. DOLE. Will the Senator yield?

Mr. NELSON. On the time of the Senator from Kansas.

Mr. GOLDWATER. I will yield.

Mr. DOLE. I want to remind the distinguished chairman it was only in the last couple of weeks the Senate passed $40 billion of energy credits to many who did not deserve it. Many people who are rich will get the tax credits under the big energy bill we passed.

We are talking about people who have worked all their life. There is quite a difference. It is just depending who has the——

Mr. NELSON. Mr. President, how much time does the Senator from Wisconsin have?

The PRESIDING OFFICER. The Senator from Wisconsin has 6 minutes, and the Senator from Arizona has 14 minutes.

Mr. LONG. Mr. President, we did in the energy bill give some tax credits to some people.

Mr. NELSON. Is this response on the time of the Senator from Kansas?

Mr. LONG. Let me just say this and I will be through.

Yes, in that energy bill we did give some tax credits to some people who might not be expecting it. But we feel if they do something that the law says they should do, they will get this.

Look, what is the head of the law firm going to do that we should encourage him to do? Will he retire and let somebody move up the ladder? No, we give him the money to stay there and deny the other man the opportunity to move up and become head of the law firm.

Mr. NELSON. I thank the Senator.

Mr. President, how much time does the Senator from Wisconsin have?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. NELSON. I thank the Senator from Louisiana.

I might point out in fairness to the late Senator Prouty, after the Senator's explanation that it would cost over a trillion dollars and benefit Mr. de Gaulle and Khrushchev and Mao Tse-tung, he did amend it. So it only applied to everybody in America.

Mr. LONG. That is right.

Mr. NELSON. Mr. President, I think we should take note again of the fact that the Senate passed an Age Discrimination Act which protects workers until age 70. The House also passed a similar bill. It is now in conference.

Now, imagine the situation, for example, at the University of Wisconsin—a great and distinguished university—with professors making $30,000, $35,000, and $40,000 and working fulltime. These professors would be drawing $35,000, and we would give them $8,400 on top of that. The bill would not be paid by them, but by the worker who is averaging $10,000 a year, and who will never earn enough to retire on that social security maximum of $8,400 a year in any event.

The purpose of social security is not to supplement the full-time income of doctors, lawyers, professors, engineers, and owners of plants. That never was the purpose. It would be nice if you could give everybody $25,000 a year; but if you are to offer such a benefit, let us come in with the tax to pay for it. If you have a referendum on that, you will not get many votes.

I have watched the Senate's action with dismay for the last 2 days. I have listened to all the conservatives, all the people who are careful with the public's money, vote yesterday for a pension bill for veterans, and place it on this bill—nongermane—without hearings, with no notion of what the cost is, except that it starts at $200 million; and when the 14 million World War II people become eligible, its cost goes to billions.

I looked at the rollcall. I could not believe it. I voted "no." But there were only 20 "no" votes in all, including all those defenders of the budget, all those fiscal conservatives, are on that rollcall. Then we come along and take $2 billion a year, when it is in full bloom, out of the general fund, for Senator DANFORTH'S amendment to assist State and local governments and other nonprofit organizations.

Look at the rollcall. All the conservatives who talk the most about fiscal conservation, voted to approve the Danforth amendment. Why? Because the general fund is some kind of amorphous, vague fund, someplace that nobody has to put money in, I suppose.

I am carrying those two rollcalls along with me in Wisconsin; and when my constituents talk about me as a big spender, I am going to read the roll of those people who are known nationwide and supported by all the conservative organizations as fiscally responsible.

We have seen more politics of joy here in the last couple of days, the joy being to give away a lot of money and take it out of the deficit. Do Senators believe there is a lot of money in the deficit? That you can just keep raising the deficit? It is endless. It is worse than the politics of joy. It is the politics of uninhibited, euphoric exhilaration. That is what we are involved in now.

There is no end to it. But I want to see the same fiscal conservatives, who make a career out of it, defend what we have been doing yesterday and today as late as a couple of hours ago. Will they vote to have another billion dollars transferred for those older persons who are better off, by any standard, than anybody else covered by social security.

Mr. GOLDWATER. Mr. President, I yield myself 2 minutes.

It has been a very entertaining 20 minutes, although I have not heard anything said that would cause anybody to seriously consider voting against the amendment.

My friend from Wisconsin and my friend from Louisiana have been talking about 4 percent of the social security recipients. What about the other 96 percent? That is where we conservatives argue with you liberals. We want the money to be distributed in a proper way, not worrying all the time about the rich people, not worrying all the time about 4 percent. What about the 96 percent who we say cannot earn a living, only because we owe the money to them?

I think the Senator has made the best argument for the bankrupt condition of the social security fund that I have heard yet, far better arguments than I made in 1964, when I recall our wonderful friend the Vice President tearing up his social security card. That was GOLD-

WATER—and, by golly, I think in your hearts you know I was right. (Laughter.)

Mr. NELSON. All I point out is that this amendment would benefit only 650,000 people out of 22 million who are over age 65. Mr. President, 650,000. They are the ones who are in the best position now.

I think it would be nice if everybody could receive all this social security money whether they work or not. But it changes the fundamental purpose of the social security system, and it lays the cost of doing it upon those who are averaging $10,000 a year.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

The Senator from Arizona has 12 minutes.

Mr. GOLDWATER. I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I underscore what the distinguished Senator from Arizona said. I think the argument was predictable. You get up and cite some horrible example, and we are supposed to focus on it instead of the problem and the issue.

EARNING LIMIT IS ARBITRARY

What the amendment does is to remove one of the most onerous provisions of the social security law as it applies to individuals who are now retired. The present earnings test of $3,000 is unfair. It is set at a completely arbitrary limit. Presently less than 50 percent of the official poverty level. The penalty is also arbitrary because it applies only to earned income and ignores income from investments.

ECONOMIC SENSE

There is a compelling economic argument for repealing the earnings limitation. The earnings test deprives our economy of the skills and productive capacity of millions of older citizens who are capable and willing to work. Many of the individuals do not work for no other reason than to avoid having their social security checks reduced. Not only do we lose their skills and output, but the Government also loses the taxes they would pay on those earnings.

Congress recently acted to give senior citizens new protection against age discrimination in employment. This legislation, now in conference, is but a useless gesture, unless we repeal the earnings limitation. It makes no sense to the Senator from Kansas to penalize a person for working.

HOUSE ACTION

The House recognized the problem caused by the earnings limitation by approving by a vote of 208 to 149 a phaseout repeal for persons aged 65 to 72. A proposal in the Finance Committee similar to the House version failed by a 9 to 9 vote. The committee bill has a provision to increase the ceiling from the existing $3,000 in 1977 to $4,500 in 1978 to $6,000 in 1979.

While I support that action, it does not go far enough for our senior citizens. Therefore I support the removal of the limitation for workers over age 65.

The Senator has been talking about income transfers. Social Security is not an income transfer program; it is a retirement program. Many have tried to make it an income transfer program over the years and nearly succeeded.

About 23 percent of the social security component now goes for welfare programs. The Senator from Arizona is addressing those persons under the system who reach 65, who have paid into the system. and who want to work.

It is good for everybody in Congress to stand up and talk about the social security system, because we are not in it. We may have a chance to be in it later today; but, as of now, we are not in the system.

It reminds me of the debate we had on the floor when the ethics bill was being considered, and we talked about earned income versus investment income. Rich Senators could clip their coupons and others could not do anything. It is much like the predicament we have now.

If you have investment income, as the lawyer would have who we paraded around here for 20 minutes, or the rich professor, or the rich banker, they will work out some arrangement. He will receive stocks or bonds instead of earnings, and then qualify for social security, you can have $50,000 or $500,000, $1 million, or $10 million, in investment income at age 65 and still get your social security benefit.

It is only those who want to work, those who want to earn the money. who are denied the right to receive their social security benefit, without having it reduced.

The poverty level is about $6,000. The distinguished Senator from Texas wants to go a little above the poverty level. We do not think that is quite enough.

If you lived in this country and worked and worked, and raised your family, and paid your taxes, and reached 65, you still have some productive years left. Why should you not work? Why should you be denied the benefits for which you paid?

We are going to have an amendment submitted in a few moments that will eliminate about 8 million people out of the 12 million, in an effort to gut the Goldwater-Dole amendment, the Senator from Idaho wants to deprive 8 million senior citizens of the right to work.

We have a tax in this amendment. The rate in our amendment is no higher than that in the Bentsen amendment.

If Senators look at the charts, they will see that we did not dream up those figures. They came from the Social Security Administration. The rates are the same. Where is all this additional cost over the committee amendment? It has not been demonstrated.

No one here is opposing the committee amendment, but they are opposing the Goldwater-Dole amendment because it provides a little more flexibility.

If we go to the year 2011 and later, the tax on the Goldwater-Dole amendment would be 9.20, percent and with the committee amendment it is 9.20 percent. So where are the billions of dollars? Where is the added cost? There is no added cost. In fact, it will be found that the Goldwater-Dole amendment is less in the early years than the committee amendment. If someone can demonstrate all these added billions of dollars, let us take a look at it. It is not there.

I do not know where all these people over 65 are who are making all this money. We can find a lawyer or a banker. I did not hear from any lawyers or bankers. I heard from the American Association of Retired Persons. Perhaps a lawyer belongs to that association. I do not know. They are middle-income Americans. I heard from the National Association of Retired Teachers Association. I do not think teachers are overpaid. Maybe, they are not paid enough. They support this legislation. They sent the information. They do not represent rich bankers and rich lawyers. They represent teachers and professors.

If someone can demonstrate that all these retired people in America, members of that association, are overpaid or receive too many benefits, that is fine.

It seems to me that what is being said, in effect, is: "If you are over 65, you are second-rate. You are not needed any longer. You have to have an earnings test. You can't make over the poverty level." You almost have to die in order to qualify. That is what we will hear in a few moments.

There are some 40 cosponsors of the Goldwater amendment, and I say beware of efforts to compromise. The House voted 268 to 149 for a similar amendment.

It seems to this Senator the time has come to approve this legislation. I see Senator Bayh in the Chamber. He is a strong supporter of this amendment and we are pleased to have his support.

I yield back the remainder of my time.

Mr. President, I ask unanimous consent to have printed in the RECORD two articles that deal with this subject.

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

INCREASE IN RATE SCHEDULE

Calendar year	Goldwater-Dole employees and employers, each		Total	Committee amendment
	OASDI	HI		
1977	4.95	0.90	5.85	5.85
1978	5.05	1.00	6.05	6.05
1979–80	5.05	1.05	6.10	6.135
1981–84	5.40	1.25	6.65	6.60
1985	5.70	1.35	7.05	7.00
1986–89	5.70	1.40	7.10	7.05
1990–94	6.15	1.40	7.55	7.50
1995–2000	6.75	1.40	8.15	8.00
2001–10	7.35	1.40	8.75	8.70
2011 and later	7.80	1.40	9.20	9.20
Self-employed persons:				
1977	7.00	0.90	7.90	7.90
1978	7.10	1.00	8.10	8.10
1979–80	7.05	1.05	8.10	8.10
1981–84	8.10	1.25	9.35	9.25
1985	8.55	1.35	9.90	9.85
1986–89	8.55	1.40	9.95	9.90
1990–94	9.25	1.40	10.65	10.55
1995–2000	10.10	1.40	11.50	11.45
2001–10	11.05	1.40	12.45	12.35
2011 and later	11.70	1.40	13.10	13.10

THE EFFECTS OF THE 1966 RETIREMENT TEST CHANGES ON THE EARNINGS OF WORKERS AGED 65–72

Program changes incorporated in the 1965 social security amendments provide a rare recent opportunity to examine the impact of changes in the retirement test on retired workers' earnings. The level of exempt earn-

ings—the amount a worker may earn without losing any benefits—was increased in 1966 for the first time since 1955. The provision under which $1 in benefits is withheld for each $2 of earnings above the exempt amount was also extended to a much wider range of earnings, affecting many more persons than before. As a consequence, the provision for withholding $1 in benefits for $1 in earnings above the $1-for-$2 range affected a new group of relatively high-earning workers.

The provisions of the retirement test in 1965 allowed the beneficiary to earn up to $1,200 annually and still receive full benefits. If he earned between $1,200 and $1,700, $1 of benefits was withheld for every $2 of earnings within this range, and if his earnings exceeded $1,700, $1 of benefits was withheld for each $1 of earnings until all benefits were withheld. Benefits were payable for any month in which total wages were $100 or less and in which the beneficiary did not perform any substantial services in self-employment. Full benefits were payable at age 72, regardless of earnings.

The amended test in 1966 provided for annual exempt earnings of $1,500. The $1-for-$2 benefit withholding area began at $1,501 and extended to $2,700, beyond which the $1-for-$1 provision was effective. This marked the first change in these provisions since 1961. At the same time the monthly test was increased to $125, while other provisions were unchanged.[1]

To determine the effects of these retirement test changes on the earnings of retired workers, earnings data for workers in the 65–72[2] age group were obtained from a 1-percent sample of workers' summary earnings records as of September 1968. The effects of changes in the test could then be noted by comparing the earnings distributions for the two years.

The conclusions of the study are:

A fairly large number of workers responded to the higher annual exempt amount by increasing their annual earnings or earnings plans from about $1,200 to about $1,500 a year.

Most of the workers who were affected by extension of the $1-for-$2 and $1-for-$1 provisions did not alter their earnings level.

Extension of the $1-for-$2 and $1-for-$1 provisions for benefit withholding to higher earnings amounts apparently had the effect of inducing some men to reduce their earnings.

HOW THE RETIREMENT TEST INFLUENCES EARNINGS

Under a retirement test of the type used since 1961, the disposable income of beneficiaries is increased by the after-tax amount of earnings up to the annual exempt amount. However, earnings in the $1-for-$2 benefit withholding area are only partially reflected in disposable income because an additional $2 in earnings results in a $1 loss of benefits. The effect of the benefit withholding is to reduce the beneficiary's marginal rate of pay in the $1-for-$2 area by one-half, and the increment to his disposable income by more than one-half if the earnings are taxed.

When the beneficiary's total earnings are in the $1-for-$1 area, each dollar above the $1-for-$2 limit is offset by a dollar of withheld benefits. Since the worker's earnings are usually subject to OASDHI and possibly to personal income taxes, he usually has less disposable income than would have been the case had he been able to limit his earnings to the upper limit of the $1-for-$2 range. In a range above that amount, the beneficiary finds himself working at a zero marginal pay rate and a negative marginal increase in disposable income: in this range, the more he has earned above the $1-for-$2 limit the less disposable income he has. The negative marginal increase in disposable income corrects itself when all benefits are withheld, and disposable income again increases by the after-tax amount of additional earnings. However, because the total amount of taxes payable increases with earnings there is a range of earnings above the point where all benefits are withheld that yields a total disposable income smaller than the disposable income that would be available if earnings were held to an amount equal to the $1-for-$2 upper limit. This, of course, increases the area of earnings where a worker might be encouraged to reduce his earnings in order to maximize his income.

The monthly test alters the general picture given above by allowing benefits to be paid for months in which earnings do not exceed the specified amount or no substantial self-employment services are performed. It is possible with the monthly test to have annual earnings in the $1-for-$1 area without reducing one's disposable income from what it would have been at the $1-for-$2 limit. In order to achieve this result the earnings must be concentrated in a few months. Such a situation typically occurs in the first year of retirement, when the beneficiary works at his regular job for part of the year and then retires. It is probable that the primary effect of the monthly test is to pay benefits to these newly retired workers or to workers who could not receive any benefits under the annual test but happen to have months with low earnings. The monthly test would seem to have little effect on the earnings of most workers because of the complexities involved in using it to maximize income.

It is clearly in a beneficiary's interest to avoid earning in the $1-for-$1 area and just above it. He may not, however, have control over the amount of his work. The choice facing him may be a job paying a certain amount or no job at all. If the beneficiary feels that he needs more income than his benefits alone will provide him, he will take the job, regardless of his preference for more or less income than the job provides.

Paradoxically, even a pay raise for the beneficiary can place him in a less desirable position. This can happen, for example, if his income is raised enough to put him in the $1-for-$1 area when he was previously in the $1-for-$2 area. His total disposable income may or may not have been increased by the raise. If he was earning in the $1-for-$1 area before the pay increase and continued to have total earnings in that area afterwards, his disposable income would actually have been reduced by receiving the raise.

A study based on the 1963 earnings distribution of workers who were entitled to retirement benefits and subject to the retirement test found that a large group of workers were earning close to the annual exempt amount, and that the number of workers with earnings immediately above that amount was much smaller.[3] The $1-for-$2 and $1-for-$1 provisions had little impact on those beneficiaries whose earnings exceeded the exempt amount. It would have been logical to find far fewer workers earning in the $1-for-$1 range, where disposable income declines, but actually there was no sudden drop in numbers where the $1-for-$2 provision left off and the $1-for-$1 provision commenced in the earnings distribution. Perhaps this reflects, as previously mentioned, that beneficiaries lack control over their total earnings.

THE 1965-66 EXPERIENCE

The 1965 and 1966 number and percentage distributions of workers aged 65-72, by sex and amount of taxable earnings, appear in table 1. The number of workers has been adjusted to the level reported in the 1967 Social Security Bulletin, Annual Statistical Supplement. In order to achieve a greater degree of comparability between the data for 1965 and 1966, all workers who fell into the 65-72 age group were included. This procedure avoids the uncertainties about comparability that can occur over time when entitlement, current payment, insured status, or receipt of benefits is used as a criterion for inclusion in the sample. The small number of uninsured workers in the sample should not affect any major conclusions to be drawn from the data.

When compared with those for 1965, the 1966 distributions exhibited substantial changes in the earnings intervals around the new and old annual exempt amounts. The percentage of men with earnings in the $1,300-1,599 interval, in which the $1,500 exempt amount is located, nearly tripled to 11 percent in 1966 from 4 percent in 1965, an increase of 135,000 workers in absolute terms. The percentage of woman in that interval increased from 5 percent to 13 percent, representing a 70,000-worker increase. On the other hand, the interval in which the old exempt amount of $1,200 is located lost a substantial number of workers. The percentage of men earning $1,000-1,299 declined from 14 percent to 9 percent, an 89,000-worker drop. The percentage of women earning $1,000-1,299 declined from 17 percent to 11 percent, a 44,000-worker decrease. Aside from these two intervals, no other comparably narrow interval experienced a change of more than 19,000 workers for either men or women.

The expected change in the number and percentage of workers in the $1,000-1,299 and $1,300-1,599 intervals that would be brought about by normal year-to-year increases in earnings would be quite different from what actually occurred. It appears from other data that both intervals would have shown an essentially unchanged number of workers and stationary or slightly declining percentages. Hence, almost no part of the observed 1965–66 changes in the two intervals can be attributed to the higher general earnings level in 1966.

The sharp drop in 1966 in the number of workers earning close to $1,200, when coupled with the increase in the number of workers earning about $1,500, is consistent with a large group of workers increasing their earnings (or, in the case of the newly retired workers, their earnings plans) from about $1,200 a year to about $1,500 a year, keeping up with the increase in the annual exempt amount. There were no other changes in the earnings distributions that quantitatively approached the changes associated with the exempt amount in 1965, indicative of the primary role of the annual exempt amount in helping to determine a beneficiary's earnings.

Although the upper limit of the $1-of-$2 benefit withholding range was extended from $1,700 in 1965 to $2,700 in 1966, there was relatively little change in the earnings distribution between $1,600 and $3,000 in earnings. The 28,000-worker increase in population in the $1,600–1,999 interval can probably be explained by the closeness of the exempt amount to that interval—a spillover of workers trying to achieve $1,500 in earnings but earning more. The small changes in the $2,000–2,999 interval populations by sex were made smaller in total because they were partially offsetting. The number of men in the $2,000–2,999 interval increased by 18,000. The percentage increased as well, which was counter to the change expected from rising

[1] The present test, effective in 1968, has a $1,680 exempt amount, $1-for-$2 withholding between $1,680 and $2,880., and $1-for-$1 withholding above $2,880. The monthly test is $140.

[2] Seventy-two rather than 71 was chosen as the upper age limit because beneficiaries are subject to the test during that part of the calendar year preceding their 72d birth date.

[3] See Kenneth G. Sander, "The Retirement Test: Its Effect on Older Workers Earnings," Social Security Bulletin, June 1968. See also House Document No. 91-40, 91st Congress, 1st Session, "The Retirement Test Under Social Security," January 1969.

earnings. There was a decline of 6,000 women in the interval, in line with the expected effect due to higher earnings levels.

The 1966 results also indicate that most workers could not or did not effectively differentiate between the $1-or-$2 and $1-for-$1 provisions in determining their earnings levels. The majority of affected workers did not avoid the $1-for-$1 area: 205,000 workers earned $3,000–3,999 in 1965 compared with 192,000 workers in that interval in 1966. In addition, there was no sudden drop in interval populations above the upper limit of the $1-for-$2 range, as there was above the exempt amount. In fact, there were actually more women earning $3,000–3,499 than there were earning $2,000–2,499 in 1966.

EARNINGS REDUCTIONS ATTRIBUTABLE TO CHANGES IN RETIREMENT TEST

Retirement test liberalizations are often supported on the basis that they provide improved work incentives for retired workers. Increasing the exempt amount of earnings should encourage additional work and, as has been shown, a number of beneficiaries do increase their earnings up to the higher exempt amount. What tends to be overlooked, though, is that liberalizations of the present form of the test can generate work disincentives. For example, it is highly unlikely that many workers who found themselves earning in the $1-for-$1 or $1-for-$2 range after the test was changed and did not like it could increase their earnings in order to improve their position. They might well, however, reduce their earnings to the neighborhood of the exempt amount as another method of bettering their position.

Another way that retirement test liberalizations could reduce the earnings of some workers would be through affording workers the chance to increase their leisure time with little or no reduction in disposable income. This opportunity could even affect workers earning amounts above the $1-for-$1 tradeoff area. For example, a worker may have been eligible for a $1,500-a-year retirement benefit in 1965, but instead chose to earn $4,000 and forego any benefits. Assuming he paid no income taxes, and ignoring work expenses, his take-home pay after social security taxes was $3,855. This was $966.63 more than the $2,888.37 he could have received by earning $1,700 and taking partial benefits of $1,250, the combination of benefits and earnings which would have maximized his disposable income.

After the retirement test liberalizations and the social security tax increase in 1966, however, he could have had an income of $3,486.60 by earning $2,700 and receiving $900 in benefits, compared with a $3,832 disposable income from earnings of $4,000. He would have gained only $345.40 in disposable income from the $1,300 of earnings above $2,700, and even less after allowing for work-connected expenses. Assuming he was paid at the rate of $2 an hour, worked a 40-hour week, and had control over his work schedule, he could have gained almost 4 months of leisure by foregoing at most $345.40 in disposable income. It may well have been attractive enough for him to reduce his earnings and "buy" the leisure time at its much reduced price in foregone income.

It is not possible to say how many workers actually reduced their earnings or earnings plans between 1965 and 1966 because of the retirement test liberalizations, but there is evidence that some workers did cut back. The percentage of men earning $3,000 or more fell from 44 percent to 42 percent. This decline occurred in the face of a rise in the earnings level which, other things being equal, would have raised the percentage to above 44 percent in 1966. Some idea as to the number of men who may have reduced their earnings or earnings plans in 1966 can be derived by calculating the number of additional workers needed to bring the percentage earnings over $3,000 to the 1965 level. This procedure yields an estimate of around 30,000 men who presumably had lower earnings. If a one percentage point increase were assumed in 1966 to allow for increased earnings levels, the number of men who presumably reduced their earnings would go to almost 50,000.

By contrast, the percentage of women earning $3,000 or more increased by one percentage point between 1965 and 1966, or what one would have expected as a result of rising earnings levels. A possible explanation for the different results between men and women in the over $3,000 earnings interval is that women do not have as much control as men over the amount of their earnings. There was evidence of this also in the $2,000–2,999 interval, where the distribution for men went counter to the underlying trend for that interval, showing increases in numbers and percentages, while the women's distribution showed the expected drop due to increasing earnings levels.

One reason for the probable greater control over earnings on the part of men can be traced to the fact that one-fourth of the men 65 or over who work have self-employment income. Only one in 10 of the women 65 or over who work have self-employment income. The self-employed could presumably regulate their earnings better than wage and salary workers.

EARNINGS OF WORKERS AGED 73 AND OVER

The 1965 and 1966 earnings distributions for men and women aged 73 and over are shown in table 2. These workers were not subject to the retirement test, and the distributions clearly show it. As one would expect with the older group, workers were concentrated in the lower earnings intervals, and the number of workers declined relatively smoothly from one higher earnings interval to another. No abnormally large groups of workers were to be found in the earnings intervals where the annual exempt amounts were located. The distributions showed no unusual changes between 1965 and 1966.

There were relatively more men aged 73 and over than men aged 65–72 earning $1,600–3,999 in 1966. This is a good indication of what some of the men who earn around the annual exempt amount increase their earnings to when freed of the constraints of the retirement test. For woman, the relatively higher populations were in the $1,600–2,999 interval, indicating less of an increase in earnings when the retirement test is removed. This would be consistent with the women's lower earnings level.

TABLE 1.—NUMBER AND PERCENTAGE DISTRIBUTION OF WORKERS AGED 65 TO 72 WITH TAXABLE EARNINGS, BY SEX AND TAXABLE EARNINGS
[Numbers in thousands]

	Total				Men				Women			
	Number		Percentage distribution		Number		Percentage distribution		Number		Percentage distribution	
Earnings interval	1965	1966	1965	1966	1965	1966	1965	1966	1965	1966	1965	1966
Total	2,610	2,708	100.0	100.0	1,749	1,715	100.0	100.0	861	893	100.0	.000
$1 to 499	435	427	16.7	15.8	240	245	13.7	13.5	195	182	22.6	20.4
$500 to $999	405	382	15.5	14.1	248	230	14.2	12.7	157	152	18.2	17.0
$1,000 to $1,299	391	258	15.0	9.5	246	157	14.1	8.7	145	101	16.8	11.3
$1,300 to $1,599	108	313	4.1	11.6	66	201	3.8	11.1	42	112	4.9	12.6
$1,600 to $1,999	96	124	3.7	4.6	61	80	3.5	4.4	35	44	4.1	4.9
$2,000 to $2,499	99	107	3.8	4.0	58	69	3.3	3.8	41	38	4.8	4.3
$2,500 to $2,999	101	105	3.9	3.9	58	65	3.3	3.6	43	40	5.0	4.5
$3,000 to $3,499	99	100	3.8	3.7	61	60	3.5	3.3	38	40	4.4	4.5
$3,500 to $3,999	106	92	4.1	3.4	73	59	4.2	3.3	33	33	3.8	3.7
$4,000 to $4,499	92	90	3.5	3.3	63	59	3.6	3.3	29	31	3.4	3.5
$4,500 or more	676	709	25.9	26.2	573	590	32.8	32.5	103	119	12.0	13.3

TABLE 1.—NUMBER AND PERCENTAGE DISTRIBUTION OF WORKERS AGED 73 AND OVER WITH TAXABLE EARNINGS, BY SEX AND TAXABLE EARNINGS
[Numbers in thousands]

	Total				Men				Women			
	Number		Percentage distribution		Number		Percentage distribution		Number		Percentage distribution	
Earnings interval	1965	1966	1965	1966	1965	1966	1965	1966	1965	1966	1965	1966
Total	779	802	100.0	100.0	561	575	100.0	100.0	218	227	100.0	100.0
$1–$499	151	160	19.4	10.9	95	102	16.9	17.7	56	58	25.8	25.6
$500–$999	145	137	18.6	17.1	98	94	17.5	16.3	47	43	21.7	18.9
$1,000–$1,299	88	80	11.3	10.0	62	52	11.1	9.0	26	28	12.0	12.3
$1,300–$1,599	50	56	6.4	7.0	37	41	6.6	7.1	13	15	6.0	6.6
$1,600–$1,999	55	56	7.1	7.0	39	40	7.0	6.9	16	16	7.4	7.0
$2,000–$2,499	48	53	6.2	6.6	33	38	5.9	6.6	15	15	6.9	6.6
$2,500–$2,999	38	42	4.9	5.2	29	30	5.2	5.2	9	12	4.1	5.3
$3,000–$3,499	30	31	3.9	3.9	21	22	3.7	3.8	9	9	4.1	4.0
$3,500–$3,999	24	27	3.1	3.4	19	20	3.4	3.5	5	7	2.3	3.1
$4,000–$4,999	21	23	2.7	2.9	16	17	2.9	3.0	5	6	2.3	2.6
$4,500 or more	128	138	16.5	17.2	112	120	20.0	20.8	16	18	7.4	7.9

Retired-Worker Beneficiaries Affected by the Annual Earnings Test in 1971

(By Barbara A. Lingg*)

(Every year some older persons entitled to retired-worker benefits lose some or all of their benefits because of the annual earnings test. This article discusses those affected in 1971—who they were, how much they earned, how much they lost in monthly cash benefits, and the effect of family status on benefit amounts. In that year, among those aged 62–71, relatively fewer women than men lost benefits as a result of earnings from work because relatively fewer women worked and those who did had lower earnings.)

Retired workers under age 72 who are entitled to monthly cash benefits under the social security program are affected by the earnings test provision of the law if they have income from employment or self-employment in excess of specific monthly and yearly exempt amounts. The effect of the earnings limitation in 1971 is studied here. In that year no benefits were withheld if annual earnings were $1,680 or less, $1 in benefits was withheld for every $2 in earnings from $1,681 to $2,880, and $1 in benefits was withheld for each $1 in earnings above $2,880. Benefits were payable, however, for any month in which the entitled individual earned $140 or less or did not render substantial services in self-employment.[1]

The 1.5 million retired-worker beneficiaries aged 62–71 who were affected by the earnings test in 1971 lost $2.2 billion in benefits. Men outnumbered women, but they also had higher earnings than women. For some individuals, earnings were not optimal in relation to their monthly benefit amount. The data (except for table 2) have been derived on a 100-percent basis from the Social Security Administration's master beneficiary record that contains detailed benefit data for all beneficiaries.[2]

In assessing the effect of the earnings test, it should be remembered that the number of beneficiaries actually receiving benefit payments would undoubtedly be larger if it were not for the limitation on earnings. Persons not claiming their benefits for this reason should be counted among those affected by the test. Most persons aged 65 or older do file for benefits. Some of them, however, file solely to become eligible for hospital benefits under Medicare and have their cash benefits postponed since they want to continue in their employment. Among those aged 62–64 who have not applied for reduced benefits are undoubtedly some who do not do so because they realize that the earnings test means limited earnings or loss of some or all of their benefits. They therefore decide to wait at least until they can file for full benefits.

This article focuses on the data for retired-worker beneficiaries on the rolls who lost some or all of their benefits because of earnings in 1971. The entitled spouses and/or children or retired-worker beneficiaries are also subject to the earnings test if they work, but the available earnings-test data for 1971 is limited to earnings of the retired worker.

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[1] The 1972 amendments to the Social Security Act modified the provision that required withholding of $1 in benefits for each $1 in earnings beyond $2,880. Beginning with 1973, for each $2 in earnings above the exempt amount only $1 of benefits was to be withheld regardless of total earnings. Legislation enacted in 1972 and 1973 provides for automatic increases in the exempt amount to reflect increases in general earnings levels. For 1975 the exempt amounts were raised to $210 per month and $2,520 per year.

[2] For a discussion of the effects of the annual earnings test in 1963, see Kenneth G. Sander, "The Retirement Test: Its Effect on Older Workers' Earnings," Social Security Bulletin, June 1968. For a history of the earnings test provisions and a discussion of possible changes and their potential effects, see U.S. Congress, Committee on Ways and Means, The Retirement Test Under Social Security, House Document No. 91–40, January 9, 1969.

Effects of Earnings Test on Benefits

The withholding provisions underlying the earnings test limit the monetary gain that retired-worker beneficiaries can receive from work. In 1971, from the point at which the earnings exceeded $2,880 to the point at which they were high enough to offset the payment of all benefits each $1 in earnings offset $1 in benefits and, therefore, there was no net gain. From that point on, however, each $1 of earnings was an addition to the individual's income, since there were no more benefits to offset (table 1). Excess earnings of the retired-worker beneficiary are charged against the total family benefit payable on his earnings record. Thus, if a retired worker has an entitled spouse and/or children, their benefits are withheld along with those of the worker until all of the excess earnings are taken into account. In the following example the effects of the 1971 earnings test are shown for a retired-worker beneficiary with total family benefits of $3,000 and varying earned income.

1. For earnings up to $2,880, with taxes on earnings disregarded, the individual would have been ahead financially by working, by a maximum of $2,280.

2. For earnings of $2,881–5,280, the monetary advantage the retired worker beneficiary could gain from employment would have remained at $2,280 regardless of the amount earned, since each additional $1 of earnings would have offset $1 in benefits. In terms of actual income, he probably would have netted far less than $2,280 because of deductions for both income and social security taxes. (Social security benefits are not subject to either tax.) Thus, the net income from gross earnings of $5,280 would probably be less than the net income from gross earnings of $2,880, since the tax-free benefits would be replaced dollar-for-dollar by taxable earnings and the taxes on earnings of $5,280 would be considerably larger than the taxes on earnings of $2,880. In addition, the worker probably would have incurred such work-related expenses as transportation, clothing, etc.

TABLE 1.—EXAMPLES OF NET RECEIPTS BY RETIRED-WORKER BENEFICIARIES FROM BENEFITS AND EARNINGS FOR SPECIFIED ANNUAL BENEFIT AND EARNINGS LEVELS, 1971

Earnings in year	Amount of benefits		Amount received from—		Economic advantage of working (in dollars)
	Withheld	Payable	Earnings and benefits	Benefits	
Benefit amount ($1,500 for year, $125 monthly):					
$1,680	0	$1,500	$3,180	$1,500	$1,680
$2,281	$300	1,200	3,481	1,500	1,981
$2,881	600	900	3,781	1,500	2,281
$3,481	1,200	300	3,781	1,500	2,281
$4,081	1,500	0	4,081	1,500	2,581
$4,681	1,500	0	4,681	1,500	3,181
$5,281	1,500	0	5,281	1,500	3,781
$5,881	1,500	0	5,881	1,500	4,381
$6,481	1,500	0	6,181	1,500	4,981
$7,081	1,500	0	7,081	1,500	5,581
Benefit amount ($3,000 for year, $250 monthly):					
$1,680	0	3,000	4,680	3,000	1,680
$2,281	300	2,700	4,981	3,000	1,981
$2,881	600	2,400	5,281	3,000	2,281
$3,481	1,200	1,800	5,281	3,000	2,281
$4,081	1,800	1,200	5,281	3,000	2,281
$4,681	2,400	600	5,281	3,000	2,281
$5,281	3,000	0	5,281	3,000	2,281
$5,881	3,000	0	5,881	3,000	2,881
$6,481	3,000	0	6,481	3,000	3,481
$7,081	3,000	0	7,081	3,000	4,081

3. The retired-worker beneficiary would have been $1 ahead for each $1 earned beyond $5,280, since all benefits would have been already offset. In order for his work to result in a net financial gain, however, he would have had to earn enough in excess of $5,280 to compensate for all taxes and work-related expenses incurred.

Since no monetary advantage would be gained from earnings over $2,880, unless they exceeded the point at which all of the benefits were offset, those with higher yearly benefit amounts would have to earn considerably more than those with lower yearly benefits to realize a financial advantage. Consequently, it would be to the advantage of many retired-worker beneficiaries to restrict their earnings to $2,880 or less, unless the earnings were fairly large.

Age and Sex

About 1.5 million retired-worker beneficiaries, roughly one-fifth of all retired workers aged 62–71, lost some or all of their 1971 benefits because they worked. About 70 percent of the group were men and 30 percent were women, compared with 58 percent and 42 percent, respectively, for the total retired-worker beneficiary population aged 62–71. Relatively fewer women lost benefits because relatively fewer women worked; moreover, relatively more of those who did work had earnings below the exempt amount. The smaller percentage of working women is in line with the generally lower labor-force participation rate of women—in 1971, 43 percent for all women and 9 percent for women aged 65 and over. The corresponding rates for men were 79 percent and 25 percent.[3] The lower earnings level among women workers is corroborated by data from the Continuous Work History Sample of the Social Security Administration. Less than $1,800 in earnings were shown for about two-fifths of the women in covered employment in 1971, but only one-fifth of the men had earnings that low. Among workers aged 65 and over, 58 percent of the women but only 45 percent of the men had earnings below $1,800 (table 2).

[3] Bureau of the Census, *Statistical Abstract of the United States: 1972* (93d edition), 1972, page 217.

TABLE 2.—WORKERS WITH TAXABLE EARNINGS: NUMBER AND PERCENTAGE DISTRIBUTION FOR ALL WORKERS AND FOR THOSE AGED 65 AND OVER, BY AMOUNT OF EARNINGS, 1971

Amount of earnings	Men		Women	
	Total	Aged 65 and over	Total	Aged 65 and over
Total number	57,200,000	2,440,000	35,700,000	1,280,000
Total percent	100	100	100	100
Less than $1,800	20	45	38	58
$1,800 to $2,999	8	11	13	12
$3,000 to $4,199	7	7	13	7
$4,200 to $5,399	7	6	12	7
$5,400 to $6,599	8	6	9	5
$6,600 to $7,799	8	4	6	4
$7,800 or more	41	21	8	7

Source: Data from the continuous work history sample for 1971. See the technical note for sampling variability calculations, p. 31.

Among those aged 62–71, the proportion of persons aged 65–71 who were affected by the earnings test was somewhat higher than the proportion of persons aged 65–71 in the total retired-worker beneficiary population aged 62–71 (table 3). This higher proportion may reflect the large number of individuals mentioned earlier who came onto the social security rolls at age 65 to be eligible for Medicare, even though their earnings offset all benefits that would otherwise be payable to them. Employed persons aged 62–64 would have little incentive to file for benefits unless their earnings were low enough to permit payment of some benefits or there were months in which they earned less than $140 or did not render substantial services in self-employment.

Information about the amount of income from work in 1971 was available for most retired-worker beneficiaries either from their annual report of earnings or their earnings record. All retired workers who received some benefits in 1971 and who earned more than $1,680 during the year were required to file an annual report of earnings indicating: (1) amount of earnings; (2) type of employment performed (wage and salary, self-employment, or a combination of the two); and (3) number of months in which they did not earn more than $140 or render substantial services in self-employment.

For persons who were not required to the annual reports because their benefits for 1971 were completely offset, earnings information was obtained from reports by employers and the self-employed and entered in the individual's earnings record for about 90 percent of the cases. For the remainder, earnings information was not available either because the reporting by employers or the self-employed was too late to be included in the tabulations, the individuals worked in employment not covered by the social security program—those in the Federal civil service, for example—or because of errors in processing the data. Earnings information was not available for about 10 percent of the men and 8 percent of the women.

TABLE 3.—NUMBER AND PERCENTAGE DISTRIBUTION OF RETIRED-WORKER BENEFICIARIES ON THE ROLLS AND OF THOSE AFFECTED BY EARNINGS TEST, BY SEX AND AGE GROUP, 1971

Sex and age	Retired-worker beneficiaries				Percent on rolls who are affected by earnings test
	On the rolls at end of year		Affected by earnings test		
	Number	Percentage distribution	Number	Percentage distribution	
Total	7,999,072	100.0	1,528,399	100.0	19.1
Men	4,622,723	57.8	1,067,949	69.9	23.1
Women	3,376,349	42.2	460,450	30.1	13.6

Sex and age	Retired-worker beneficiaries				Percent on rolls who are affected by earnings test
	On the rolls at end of year		Affected by earnings test		
	Number	Percentage distribution	Number	Percentage distribution	
Men	4,622,723	100.0	1,067,949	100.0	23.1
62 to 64	659,903	14.3	109,238	10.2	16.6
65 to 71	3,962,820	85.7	958,711	89.2	24.2
Women	3,376,349	100.0	460,450	100.0	13.6
62 to 64	712,030	21.1	74,712	16.2	10.5
65 to 71	2,664,319	78.9	385,738	83.8	14.5

An analysis of earnings of retired-worker beneficiaries indicates that relatively more men (57 percent) than women (37 percent) had earnings of $5,281 or more. On the other hand, relatively more women (40 percent) than men (24 percent) had earnings of $1,681–4,080 (table 4). These differences in the earnings levels of working men and women beneficiaries reflect earnings differences between men and women in the general population. Among all workers with taxable earnings in 1971, 57 percent of the men but only 23 percent of the women had earnings of $5,400 or more. For workers aged 65 or older, the corresponding proportions were 31 percent and 16 percent.

Relatively more men and women aged 65–71 had earnings in the higher ranges than men and women aged 62–64. Among those aged 65–71, for example, 60 percent of the men and 40 percent of the women had earnings exceeding $5,280, compared with 33 percent of the men and 23 percent of the women aged 62–64. These differences could be expected since many persons aged 62–64 with fairly high earnings would not have filed for benefits.

In all, retired-worker beneficiaries affected by the earnings test lost $2.2 billion in social security benefits—about 71 percent of the $3.1 billion that would have been payable to them and their entitled dependents if there had been no deductions due to earnings. Men lost $1.65 billion (72 percent of their benefits) and women lost $0.5 billion (68 percent). For both men and women the proportion of benefits withheld was substantially higher for those aged 65–71 than for those aged 62–64. Among men, the proportion of benefits withheld was about 74 percent for those aged 65–71 but only 52 percent for those aged 62–64. Among women, the corresponding proportions were 71 percent and 49 percent. These differences may reflect in part the higher earnings of workers aged 65–71.

ABLE 4.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1971, PERCENTAGE DISTRIBUTION BY AMOUNT OF EARNINGS, AND AVERAGE BENEFIT AMOUNT WITHHELD AND BEFORE WITHHOLDING, BY SEX, AGE, AND PRIMARY INSURANCE AMOUNT

Sex, age, and primary insurance amount	Retired-worker beneficiaries affected		Percentage distribution, by amount of earnings						Average benefit amount—		Ratio of benefits withheld to amount before withholding
	Number	Percent of total	Total	Earnings unknown	$1,681–2,880	$2,881–4,080	$4,081–5,280	$5,281 or more	Withheld	Before withholding	
MEN											
Total	1,067,949	100.0	100.0	9.7	14.9	8.7	9.7	57.0	$1,545	$2,150	0.719
Under $100	26,080	2.4	100.0	32.4	22.9	11.4	7.6	25.7	541	791	.684
$100 to $209.90	295,759	27.7	100.0	16.7	28.1	15.7	15.6	23.9	984	1,616	.609
$210 or more	746,110	69.9	100.0	6.2	9.4	5.8	7.4	71.2	1,809	2,409	.751
Aged 62 to 64, total	109,238	100.0	100.0	7.1	32.6	17.1	10.3	32.9	862	1,644	.524
Under $100	3,897	3.6	100.0	14.3	56.1	14.7	5.2	9.7	340	705	.482
100 to $209.90	49,885	45.7	100.0	8.9	44.4	22.6	10.9	13.2	643	1,367	.470
210 or more	55,456	50.7	100.0	4.9	20.2	12.3	10.2	52.4	1,096	1,960	.559
Aged 65 to 71, total	958,711	100.0	100.0	10.1	12.9	7.7	9.6	59.7	1,623	2,207	.735

Sex, age, and primary insurance amount	Retired-worker beneficiaries affected		Percentage distribution, by amount of earnings						Average benefit amount—		Ratio of benefits withheld to amount before withholding
	Number	Percent of total	Total	Earnings unknown	$1,681–2,880	$2,881–4,080	$4,081–5,280	$5,281 or more	Withheld	Before withholding	
Under $100	22,183	2.3	100.0	35.6	17.0	10.8	8.1	28.5	$577	$806	.716
$100 to $209.90	245,874	25.6	100.0	18.3	24.8	14.3	16.5	26.1	1,086	1,666	.652
$210 or more	690,654	72.1	100.0	6.3	8.5	5.3	7.2	72.7	1,860	2,445	.761
WOMEN											
Total	460,450	100.0	100.0	8.0	25.3	14.5	15.0	37.2	1,148	1,683	.682
Under $100	23,330	5.1	100.0	24.0	44.5	11.3	5.6	14.6	452	801	.564
$100 to $209.90	241,280	52.4	100.0	9.4	37.3	21.6	19.1	12.6	833	1,416	.588
$210 or more	195,840	42.5	100.0	4.4	8.2	6.2	11.1	70.1	1,619	2,116	.765
Age 62 to 64, total	74,712	100.0	100.0	6.1	46.8	17.1	7.0	23.0	594	1,203	.494
Under $100	7,709	10.3	100.0	10.0	70.3	10.7	2.7	6.3	268	665	.403
$100 to $209.90	46,756	62.6	100.0	5.4	57.4	22.2	7.6	7.4	485	1,117	.434
$210 or more	20,247	27.1	100.0	6.0	13.3	7.8	7.7	65.2	969	1,609	.602
Aged 65 to 71, total	385,738	100.0	100.0	8.4	21.1	14.0	16.6	39.9	1,255	1,776	.707
Under $100	15,621	4.1	100.0	30.9	31.8	11.6	7.0	18.7	543	868	.626
$100 to $209.90	194,524	50.4	100.0	10.3	32.5	21.4	21.9	13.9	916	1,488	.616
$210 or more	175,593	45.5	100.0	4.3	7.6	5.9	11.5	70.7	1,694	2,175	.779

EARNINGS AND PRIMARY INSURANCE AMOUNT

The primary insurance amount (PIA) is related to average monthly earnings on which a person's social security taxes are paid. It serves as the basis for computing all social security cash benefit amounts. The full PIA is payable to a retired worker who becomes entitled to benefits at age 65. If the worker becomes entitled before age 65, the PIA is actuarially reduced. Since the PIA in a limited way reflects a person's average monthly earnings before entitlement to benefits, one might expect that those with high PIA's would be in a better position than those with low PIA's to have high earnings if they engage in work activities after entitlement to benefits. As table 4 data indicate, a substantially higher proportion of retired workers with PIA's of $210 or more had earnings exceeding $5,280 than those with lower PIA's, irrespective of age and sex. Interestingly, although the proportion of women with high earnings was generally much lower than the proportion of men with high earnings, the earnings patterns of men and women were virtually identical at the highest PIA level.

BENEFICIARY FAMILY STATUS AND MONTHLY BENEFIT AMOUNT

About 80 percent of the retired-worker beneficiaries who were affected by the earnings test in 1971 are classified as "worker-only" beneficiary families (table 5). Family classifications of the beneficiary data are based on the aggregation of persons entitled to benefits on the worker's earnings record. The term "worker-only" family therefore means that no spouses and/or children are entitled to benefits on the worker's earnings record. It does not necessarily mean that the worker is not married. The worker actually may be married to another beneficiary who is entitled to benefits on his or her own earnings record, or to a person who does not meet the requirements for entitlement—a woman too young, for example, to become entitled to wife's benefits.

TABLE 5.—NUMBER AND PERCENTAGE DISTRIBUTION OF RETIRED WORKER BENEFICIARIES AFFECTED BY THE EARNINGS TEST IN 1971, AMOUNT OF BENEFITS WITHHELD AND BEFORE WITHHOLDING, BY AGE GROUP, SEX, TYPE OF EMPLOYMENT, AND BY TYPE OF BENEFICIARY FAMILY

Sex, type of employment and type of beneficiary family	Retired-worker beneficiaries affected						Amount of benefits (in thousands)					
	Total		Aged 62–64		Aged 65–71		Total		Aged 62–64		Aged 65–71	
	Number	Percentage distribution	Number	Percentage distribution	Number	Percentage distribution	Withheld	Before withholding	Withheld	Before withholding	Withheld	Before withholding
Total	1,528,399	100.0	183,950	12.0	1,344,449	88.0	$2,178,837	$3,070,339	$138,505	$269,518	$2,040,332	$2,800,820
Men	1,067,949	69.9	109,238	7.1	958,711	62.8	1,650,272	2,295,576	94,158	179,621	1,556,114	2,415,954
Women	460,450	30.1	74,712	4.9	385,738	25.2	528,565	774,763	41,347	89,897	484,218	681,896
Men	1,067,949	100.0	109,238	100.0	958,711	100.0	1,650,272	2,295,576	94,158	179,621	1,556,114	2,115,954
Wage and salary	558,105	52.3	75,192	68.8	483,213	50.4	670,398	1,145,597	58,783	123,252	614,585	1,022,345
Self-employed	72,251	6.8	13,816	12.6	58,435	6.1	73,501	159,411	8,859	21,178	64,615	138,232
Wage and salary and self-employed	21,988	2.0	4,438	4.1	17,550	1.8	21,816	46,489	3,036	6,831	18,780	39,658
Type unknown	415,305	38.9	15,792	14.5	399,513	41.7	884,585	944,679	23,480	28,360	864,105	915,719
Women	460,450	100.0	74,712	100.0	385,738	100.0	528,565	774,763	41,317	89,897	484,248	681,866
Wage and salary	316,313	68.7	66,527	89.0	249,786	64.8	287,133	506,270	38,449	80,724	248,713	425,549
Self-employed	11,000	2.4	2,355	3.2	8,736	2.3	8,666	18,108	1,064	2,567	7,602	15,511
Wage and salary and self-employed	3,655	.8	770	1.0	2,885	.7	3,256	6,198	465	924	2,794	5,274
Type unknown	129,391	28.1	5,060	6.8	124,331	32.2	229,510	244,187	4,399	5,685	225,111	238,502
All beneficiary families	1,528,399	100.0	183,950	100.0	1,344,449	100.0	2,178,837	3,070,339	138,505	269,548	2,040,332	2,880,820
Worker only	1,223,330	80.0	146,782	79.8	1,076,518	80.1	1,603,620	2,183,389	93,326	188,268	1,510,293	1,995,421
Men	766,636	50.0	73,451	39.9	693,185	51.6	1,079,777	1,417,096	50,125	100,763	1,029,652	1,316,303
Women	456,624	30.0	73,331	39.9	383,363	28.5	523,813	766,323	43,201	87,505	480,641	678,818
Worker and spouse	240,793	15.8	22,590	12.3	218,203	16.2	469,269	702,801	30,429	48,096	438,810	654,708
Worker and children	27,725	1.8	5,995	3.2	21,730	1.6	40,942	71,235	5,530	12,386	35,383	58,848
Worker, spouse, and children	36,551	2.4	8,583	4.7	27,968	2.1	65,037	112,912	9,221	20,769	55,817	92,443

About 4 percent of the retired-worker beneficiaries affected by the earnings test in 1971 had dependent children entitled to benefits on their wage records. The percentage of beneficiary families with dependent children was somewhat higher among those beneficiaries aged 62–64 than among those aged 65–71. Relatively more of the older group than of the younger had spouses entitled to benefits. Because women retired-worker beneficiaries comprised less than 1 percent of the "worker and spouse" and "worker, spouse, and children" beneficiary families, data for such families that include dependents are not shown separately by sex of the retired-worker beneficiary. Comparisons are made only between families with dependents and those with a man as the only beneficiary.

In general, beneficiary families with dependents lost a lower proportion of their benefits than the men in the worker-only families (table 6). A partial explanation is the fact that the former tend to receive larger monthly amounts, because the family benefit includes amounts to which dependents are entitled.[4] It would therefore take fewer benefit months to offset amounts to be withheld due to earnings and benefits would be payable for more months during the year.

[4] Family benefits are subject to a maximum amount that is related to the worker's PIA. If the family benefit amount exceeds this maximum, the benefits to the dependents are reduced. The earnings test is applied against the amount the family actually receives. Thus, if a family receives the maximum, it will apply against that amount not against the amount the dependents would have received before reduction for the family maximum.

TABLE 6.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1971, PERCENTAGE DISTRIBUTION BY AMOUNT OF EARNINGS, AND AVERAGE BENEFIT AMOUNT WITHHELD AND BEFORE WITHHOLDING, BY TYPE OF BENEFICIARY FAMILY AND MONTHLY BENEFIT AMOUNT

Type of beneficiary family and monthly benefit amount	Retired-worker beneficiaries affected		Percentage distribution, by amount of earnings					Average benefit amount—		Ratio of benefits withheld to amount before withholding
	Number	Percent of total	Total	Earnings unknown	$1,681 to $2,880	$2,881 to $4,080	$4,081 to $5,280	$5,281 or more	Withheld	Before withholding	
Worker only, men	766,636	100.0	100.0	9.0	13.9	8.6	10.3	58.2	$1,409	$1,848	0.762
Under $100.00	23,870	3.1	100.0	30.0	26.2	12.4	8.0	23.4	502	732	.686
$100.00 to $149.90	72,816	9.5	100.0	22.0	34.9	16.8	11.3	15.0	675	1,139	.593
$150.00 to $199.90	139,186	18.2	100.0	13.3	24.2	15.4	18.5	28.6	1,000	1,556	.648
$200.00 to $249.90	261,419	34.1	100.0	7.2	12.7	8.0	12.4	59.7	1,426	1,931	.738
$250.00 or more	269,345	35.1	100.0	3.0	3.1	3.0	3.9	87.0	1,877	2,210	.849
Worker only, women	456,694	100.0	100.0	8.0	25.2	14.5	15.1	37.2	1,147	1,678	.684
Under $100.00	24,743	5.4	100.0	18.6	52.0	12.6	4.9	11.9	385	733	.525
$100.00 to $149.90	86,064	18.8	100.0	11.2	55.4	19.8	7.5	6.1	513	1,147	.447
$150.00 to $199.90	138,167	30.3	100.0	9.0	27.3	23.5	24.4	15.5	974	1,553	.627
$200.00 to $249.90	127,239	27.9	100.0	5.2	11.1	8.6	18.1	57.0	1,444	1,926	.750
$250.00 or more	80,181	17.6	100.0	3.7	3.6	3.3	5.3	84.1	1,887	2,359	.800
Worker and spouse	240,793	100.0	100.0	10.9	16.7	8.2	7.7	56.5	1,949	2,919	.668
Under $150.00	5,342	2.2	100.0	26.6	30.7	8.1	13.7	20.9	633	1,100	.575
$150.00 to $199.90	11,711	4.9	100.0	19.3	40.6	15.9	10.3	13.9	766	1,635	.485
$200.00 to $249.90	23,419	9.7	100.0	16.2	33.8	15.0	12.0	23.0	1,064	2,100	.507
$250.00 to $299.90	39,228	16.3	100.0	12.3	23.2	10.8	10.2	43.5	1,527	2,578	.592
$300.00 to $349.90	48,562	20.2	100.0	11.0	20.6	8.8	8.8	50.8	1,754	2,930	.599
$350.00 or more	112,531	46.7	100.0	7.6	6.1	4.6	5.2	76.5	2,550	3,423	.745
Worker and children	27,725	100.0	100.0	12.9	21.4	12.2	10.3	43.1	1,476	2,569	.575
Under $150.00	1,341	4.8	100.0	23.1	38.9	15.9	5.6	16.5	538	1,061	.507
$150.00 to $199.90	2,328	8.4	100.0	17.9	42.0	20.2	9.3	10.6	672	1,527	.440
$200.00 to $249.90	3,224	11.6	100.0	15.3	36.4	20.3	12.6	15.4	908	1,973	.460
$250.00 to $299.90	4,156	15.0	100.0	13.8	28.0	16.8	14.3	27.1	1,205	2,382	.506
$300.00 to $349.90	5,369	19.4	100.0	11.6	20.3	11.4	12.9	43.8	1,506	2,750	.548
$350.00 or more	11,307	40.8	100.0	10.5	8.9	6.6	7.7	66.3	2,000	3,116	.642
Worker, spouse, and children	36,551	100.0	100.0	16.4	19.3	12.6	10.2	41.5	1,778	3,089	.576
Under $150.00	1,627	4.5	100.0	27.8	32.3	17.1	7.8	15.0	580	1,078	.538
$150.00 to $199.90	2,932	8.0	100.0	23.5	34.8	19.7	10.8	11.2	762	1,534	.497
$200.00 to $249.90	3,691	10.1	100.0	19.9	29.7	22.3	13.0	15.1	964	1,959	.492
$250.00 to $299.90	3,123	8.6	100.0	19.7	24.1	19.9	15.7	20.6	1,221	2,393	.510
$300.00 to $349.90	3,417	9.3	100.0	17.4	22.1	15.5	15.8	29.2	1,465	2,843	.515
$350.00 or more	21,761	59.5	100.0	13.3	13.3	8.2	8.2	56.9	2,274	3,779	.602

Among beneficiary families affected by the earnings test, more than three-fourths of those with dependents but only 35 percent of the male worker-only families received monthly benefits of $250 or more. Families with dependents therefore tended to have more benefits against which earnings could be offset and thus possibly could retain some benefits, though the same amount of earnings offset all the benefits payable to "worker-only" families. Lower earnings among beneficiary families with dependents also help to account for proportionately smaller losses of benefits. The data indicate that among beneficiary families with the highest monthly benefit amounts, the proportion of retired-worker beneficiaries earning $5,281 or more was somewhat lower among families with children than among male "worker-only" families.

It does not always prove financially advantageous to work since earnings beyond $2,880 do not contribute to the net income of the beneficiary family unless earnings exceed the point at which all benefits are offset. A worker entitled to benefits for all months of 1971 at the monthly rate of $250 would not, for example, gain anything from earnings from $2,881 to $5,280. He would have to earn much more than $5,280 to benefit financially from earnings beyond $2,880. Yet the data indicate that many beneficiary families with a monthly benefit amount of $250 or more earned $2,881–$5,280. The proportion of beneficiary families with earnings in this range was particularly high for retired-worker beneficiary families with dependent children—about 31 percent of the "worker and children" families with monthly benefits of $250–$299 and about 14 percent of those with monthly benefits of $350. Among "worker, spouse, and children" families, the corresponding proportions were 36 percent and 16 percent. On the other hand, less than 10 percent of "worker-only" families with monthly benefits of $250 or more had earnings within this range. As pointed out earlier, families with higher monthly benefits would have had to earn considerably more than those with low monthly benefits to realize a financial advantage from annual earnings above $2,880.

Some retired-worker beneficiaries had earnings within the nonoptimal range—for several possible reasons. First, some of them could not control the conditions of their employment and may have had to earn more than $2,880 in order to earn anything at all. The need to supplement the retirement income may have prompted them to continue to work, even if earnings beyond $2,880 did not provide an additional financial advantage. The need for additional income was probably greater for those with dependent children and, with taxes disregarded, earnings beyond $2,880 created at least $2,280 of additional income. Some individuals may not have been aware of the optimal amount of earnings in relation to their benefits and worked beyond that point (even if they had some control over how much they could earn). Finally, some individuals may have derived something other than financial satisfaction from their work. Such considerations as status, associations with others, and the opportunities for accomplishment and self-expression provided by their work may have outweighed financial motives.

TABLE 7.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1971, PERCENTAGE DISTRIBUTION BY AMOUNT OF EARNINGS, AND AVERAGE BENEFIT AMOUNT WITHHELD AND BEFORE WITHHOLDING, BY TYPE OF EMPLOYMENT AND SEX

Type of employment and sex	Number	Percentage distribution, by amount of earnings					Average benefit amount—		Ratio of benefits withheld to amount before withholding
		Total	Earnings unknown	$1,681 to $2,880	$2,881 to $4,080	$4,081 to $5,280	$5,281 or more	Withheld	Before withholding	
Total	1,528,309	100.0	9.2	18.0	10.5	11.3	51.0	$1,426	$2,009	0.710
Wage and salary	874,718	100.0	6.8	26.7	14.5	12.0	40.0	1,095	1,888	.580
Men	558,405	100.0	7.3	22.5	12.3	11.5	46.4	1,201	2,052	.585
Women	316,313	100.0	5.9	34.2	18.2	12.9	28.8	908	1,601	.567
Self-employed	83,342	100.0	6.5	35.0	17.4	10.7	30.4	986	2,130	.463
Men	72,251	100.0	6.8	33.5	17.1	10.7	31.9	1,017	2,206	.461
Women	11,091	100.0	4.2	44.4	19.3	10.9	21.2	781	1,633	.478
Wage and salary and self-employed	25,643	100.0	6.4	28.5	17.6	12.7	34.8	978	2,055	.476
Men	21,988	100.0	6.7	28.0	17.4	12.5	35.4	992	2,114	.469
Women	3,655	100.0	4.8	31.7	18.7	13.5	31.2	891	1,696	.525
Type unknown	544,696	100.0	13.7	.9	2.6	10.2	72.6	2,045	2,182	.937
Men	415,305	100.0	13.7	.7	1.9	6.9	76.8	2,130	2,273	.937
Women	129,391	100.0	13.8	1.6	4.9	20.6	59.1	1,774	1,887	.940

Among persons whose earnings were high enough to be affected by the earnings test, the type of employment (either wage and salary, self-employment, or a combination of the two) was obtained for about 60 percent of the men and 70 percent of the women from the annual reports they were required to file. Relatively more men than women were self-employed or had a combination of wage and salary employment and self-employment.

Type of employment was unknown for a substantial number of workers—mainly those who were not required to file annual reports because their earnings were high enough to offset all benefits payable for the year. While type of employment was not available for this group, the amount of earnings was available for most of them from their earnings records. At least 77 percent of these men and 59 percent of the women had earnings above $5,280. Among those whose type of employment was known, relatively fewer men and women had earnings above $5,280 (table 7). Entitled workers whose type of employment was not known lost about 94 percent of their benefits to earnings.

The proportion of entitled workers with earnings of $1,681–2,880 was higher among those with earnings from self-employment than among those with earnings from salaries and wages only or from both salaries and wages and self-employment. The self-employed probably had more control over the amount of time that they worked or over their level of earnings than those who had worked for an employer. It is difficult to draw conclusions about the relationship of earnings to type of employment, because of the large number of workers whose type of employment was unknown.

MONTHS OF ENTITLEMENT AND NONWORK

Tables 8 and 9 show information on the number of months workers were entitled in 1971 (either 12 months or less than 12 months) and the number of months in which they did not earn over $140 or did not render substantial services in self-employment (nonwork months). Both for months of entitlement in 1971 and for nonwork months the pattern did not differ much among men and women but did differ for the two age groups. The proportion of retired-worker beneficiaries entitled for all months of 1971 was higher among those aged 65–71 than among those aged 62–64. More of the younger group may have become entitled during the year, but more of the older group may have been on the rolls for some time. The proportion of those who had one or more nonwork months was higher for the group aged 62–64 than for those aged 65–71. Since those under age 65 would have little incentive to file for benefits unless they could actually receive some payment, the fact that there were months for which payment could be made (regardless of total annual earnings) might have prompted some people in this age group to come on the rolls.

One would expect that persons with earnings from self-employment would have more nonwork months than persons with earnings from wages and salaries or a combination of the two types of employment since the self-employed may have greater control over their work time. The data indicate, however, that among those whose type of employment was known, relatively more of those with a combination of wage and salary and self-employment had some nonwork months than did those who had either wage and salary employment or self-employment. As expected, all persons whose types of employment was unknown had zero nonwork months—these were individuals who did not file annual reports because no benefits were payable to them for the year.

TABLE 8.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1961, NUMBER OF MONTHS OF ENTITLEMENT AND NUMBER OF NONWORK MONTHS, BY SEX, AGE GROUP, AND TYPE OF EMPLOYMENT

Sex, age, and type of employment	Length of entitlement: Entitled for 12 months — Number	Entitled for 12 months — Percentage distribution, by number of nonwork months: Total	0	1 to 6	7 to 11	Entitled for less than 12 months — Number	Percentage distribution, by number of nonwork months: Total	0	1 to 6	7 to 11
Men	797,405	100	60.7	22.9	16.4	270,544	100	57.9	31.3	10.8
62 to 64	63,574	100	42.2	31.0	26.8	45,664	100	38.3	51.2	10.5
65 to 71	733,831	100	62.3	22.2	15.5	224,880	100	61.9	27.3	10.8
Wage and salary	406,016	100	36.4	37.8	25.8	152,389	100	33.3	49.6	17.1
Self-employed	59,529	100	27.7	38.6	33.7	12,722	100	36.8	47.9	15.3
Wage and salary and self-employed	16,579	100	27.1	39.4	33.5	5,409	100	22.9	57.5	19.6
Type unknown	315,281	100	100.0	0	0	100,024	100	100.0	0	0
Women	354,618	100	60.7	23.2	16.1	105,832	100	52.7	37.8	9.5
62 to 64	44,983	100	46.2	30.8	23.1	29,729	100	32.2	60.5	7.3
65 to 71	309,635	100	62.8	22.1	15.1	76,103	100	60.6	29.0	10.4
Wage and salary	242,794	100	45.5	32.3	22.2	73,519	100	34.2	52.6	13.2
Self-employed	8,958	100	42.9	29.7	27.4	2,133	100	43.5	43.8	12.7
Wage and salary and self-employed	2,989	100	35.5	37.3	27.2	666	100	23.5	62.1	14.3
Type unknown	99,877	100	100.0	0	0	29,514	100	100.0	0	0

The proportion of retired-worker beneficiaries with earnings exceeding $5,280 was higher among those whose entitlement during 1971 was less than 12 months than among those who were entitled for the entire year (table 9). Possibly some of those who were entitled for less than a full year were working at fairly high wages until they retired; others might have been working full time and came onto the rolls solely to file for Medicare. Relatively more of those who were entitled for all months of 1971 may have been working at fairly low wages to supplement their retirement income.[5]

Retired-worker beneficiaries with 7–11 nonwork months had substantially lower earnings than those with from 0 to 6 nonwork months, as expected, since the former had fewer months in which to accumulate substantial total earnings. The earnings level for those with 1–6 nonwork months did not differ substantially from the earnings level for those with zero nonwork months. Those with 1–6 nonwork months, however, lost a much lower proportion of the total benefits payable to them. Among men entitled for less than 12 months, for example, those with zero nonwork months lost about 90 percent of the benefits payable, but those with 1–6 nonwork months lost only about 57 percent of their benefits. Obviously, those with some nonwork months were able to receive benefits for these months.

[5] The earnings-test provisions are the same, regardless of the number of months of entitlement in the year. Thus, if a worker entitled for less than a full year earned more than $1,680 he would be subject to the earnings test (even if some of that amount had been earned before he became entitled to benefits). For a discussion of the effect of the earnings test on persons with part-year entitlement, see Barbara A. Lingg. *Social Security Bulletin*, January 1975, pp. 28–34.

TABLE 9.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1971, PERCENTAGE DISTRIBUTION BY AMOUNT OF EARNINGS, AND AVERAGE BENEFIT AMOUNT WITHHELD AND BEFORE WITHHOLDING, BY SEX, MONTHS OF ENTITLEMENT, AND NUMBER OF NONWORK MONTHS

Sex and number of nonwork months	Number	Percent of total	Percentage distribution, by amount of earnings: Total	Amount of earnings unknown	$1,681 to $2,880	$2,881 to $4,080	$4,081 to $5,280	$5,281 or more	Average benefit amount—: Withheld	Before withholding	Ratio of benefits withheld to amount before withholding
MEN	Entitled 12 months										
Total	797,405	100.0	100.0	10.3	17.7	9.1	9.3	53.6	$1,771	$2,476	0.715
0 nonwork months	484,063	60.7	100.0	12.4	12.5	6.7	6.4	62.0	2,087	2,469	.845
1 to 6 nonwork months	182,909	22.0	100.0	9.3	13.2	9.4	16.3	51.8	1,594	2,501	.637

TABLE 9.—NUMBER OF RETIRED-WORKER BENEFICIARIES AFFECTED BY EARNINGS TEST IN 1971, PERCENTAGE DISTRIBUTION BY AMOUNT OF EARNINGS, AND AVERAGE BENEFIT AMOUNT WITHHELD AND BEFORE WITHHOLDING, BY SEX, MONTHS OF ENTITLEMENT, AND NUMBER OF NONWORK MONTHS

Sex and number of nonwork months	Number	Percent of total	Percentage distribution, by amount of earnings						Average benefit amount—		Ratio of benefist withheld to amount before withholding
			Total	Amount of earnings unknown	$1,681 to $2,880	$2,881 to $4,080	$4,081 to $5,280	$5,281 or more	Withheld	Before withholding	
7 to 11 nonwork months	130,433	16.4	100.0	3.7	43.9	17.4	10.3	24.7	$847	$2,464	.344
					Entitled less than 12 months						
Total	270,544	100.0	100.0	8.2	6.4	7.5	10.7	67.2	880	1,188	.741
0 nonwork months	156,644	57.9	100.0	12.5	5.0	5.1	8.0	69.4	1,048	1,164	.900
1 to 6 nonwork months	84,786	31.3	100.0	2.4	6.3	9.9	14.4	67.0	665	1,159	.574
7 to 11 nonwork months	29,114	10.8	100.0	1.7	14.0	13.8	15.2	55.3	599	1,399	.428
WOMEN					Entitled 12 months						
Total	354,618	100.0	100.0	8.6	28.7	14.7	14.2	33.8	1,272	1,895	.671
0 nonwork months	215,381	60.7	100.0	9.8	25.6	16.5	13.3	34.8	1,424	1,905	.746
1 to 6 nonwork months	82,066	23.2	100.0	9.7	15.9	12.8	18.5	43.1	1,307	1,965	.665
7 to 11 nonwork months	57,171	16.1	100.0	2.5	59.1	11.1	10.9	16.4	651	1,759	.370
					Entitled less than 12 months						
Total	105,832	100.0	100.0	6.1	13.7	13.8	18.7	47.7	732	970	.755
0 nonwork months	55,742	52.7	100.0	9.4	13.5	11.4	18.0	47.7	850	973	.874
1 to 6 nonwork months	40,034	37.8	100.0	2.4	11.8	16.1	17.9	51.8	603	951	.634
7 to 11 nonwork months	10,056	9.5	100.0	2.2	22.5	14.6	19.2	41.5	584	1,025	.570

Differences in earnings between those with zero or 1–6 nonwork months and between those with 7–11 nonwork months were greater among those entitled for all months of 1971 than among those entitled for less than 12 months. Among men entitled for all months of 1971, for example, the proportion with earnings exceeding $5,280 was about 52 percent for those with 1–6 nonwork months and 25 percent for those with 7–11 nonwork months. Among men entitled for less than 12 months, the proportions were 67 percent and 55 percent, respectively. It is likely that many of those with less than 12 months of entitlement in 1971 were new entrants to the social security rolls and may have had fairly high earnings before retirement but several nonwork months after retirement. On the other hand, many of those with 12 full months of entitlement in 1971 were not new entrants; they may have been working at lower wages to supplement their retirement benefits and the 7–11 nonwork months would hold down their total earnings considerably.

TECHNICAL NOTE [6]

All data, except those presented in table 2, were derived on a 100-percent basis from the Social Security Administration's master beneficiary record. Sampling variability calculations for the data in table 2 (derived from the 1971 Continuous Work History Sample) are shown in table I.

Since the estimates (in percentages) are based on sample data, they are subject to sampling variability, which can be measured by the standard error. The chances are about 68 out of 100 that the differences due to sampling variability between a sample estimate and the figure that would have been obtained from a compilation of all records is less than the standard error. The chances are 95 out of 100 that the difference is less than twice the standard error and about 99 out of 100 that it is less than 2½ times the standard error. Table I (expressed in percentage points) shows the standard error for percentages of persons with a particular characteristic. Linear interpolation may be used for estimated percentages and base figures not shown here.

TABLE I.—APPROXIMATIONS OF STANDARD ERRORS OF ESTIMATED PERCENTAGES

Base of percentages (in thousands)	2 or 98	5 or 95	10 or 90	20 or 80	35 or 65	50
All workers:						
25,000	(1)	(1)	0.10	0.10	0.10	0.10
50,000	(1)	(1)	(1)	.10	.10	.10
75,000	(1)	(1)	(1)	.10	.10	.10
Workers aged 65 and over:						
750	0.20	0.30	.40	.50	.60	.60
1,000	.10	.20	.30	.40	.50	.50
2,500	.10	.10	.20	.30	.30	.30

[1] Less than 0.1 percent.

Mr. GOLDWATER. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Arizona has 7 minutes.

Mr. GOLDWATER. Mr. President, if my friend from Wisconsin is willing, I am perfectly willing to yield back.

Mr. BAYH. Mr. President, will the Senator yield me just a moment?

Mr. GOLDWATER. I have 7 minutes. How much does the Senator need?

Mr. BAYH. A couple minutes will be fine.

I say to my friend from Arizona, I put a rather lengthy statement in the RECORD when I knew I was going to have to be downstairs in the Appropriations Committee trying to resolve this controversy we are having with the House on the HEW appropriations bill.

I have supported this proposition for a long period of time, and I hope that the Senate will sustain our position.

Mr. GOLDWATER. Mr. President, unless there are other Senators who wish to speak in favor, I gladly yield back the remainder of our time so we may allow the Senator from Idaho to get out his long knife and see what can be done.

Mr. NELSON. I want to see that as soon as possible.

Do Senators want any time yielded to them?

Mr. President, I yield back the remainder of my time.

Mr. GOLDWATER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BAYH. Mr. President, I rise in support of the amendment submitted on behalf of Senator GOLDWATER, myself, and several of our colleagues. This amendment is very similar to legislation which I introduced earlier in this Congress. It would take the beneficial reforms made by the Finance Committee in the area of outside earning limitation one step further by eliminating this restriction altogether by the year 1982.

It is stating the obvious to say that inflation has had a particularly disastrous impact on our Nation's older citizens.

During this past year, I am sure nearly every Member of this body has spoken at some length regarding this subject. It is now time to take action to ease the burden on older Americans. One step we can take in this regard is to alter the present earning limitation for recipients of social security.

Mr. President, the central fact about social security is that it does not provide enough income for retired persons to live decently. Even with the increased level of benefits that went into effect in June, the soaring cost of living has left many social security recipients striving just to get by. Those who have no other income than their social security check live—strictly speaking—in poverty. Nearly 25 percent of the population over 65 falls into this category according to the Census Bureau. As of March of this year, this represents 3.5 million persons. In all too many cases, the only solution

[6] The contributions of Robert H. Finch and Beatrice K. Matsui, Division of OASDI Statistics, to the sampling variability calculations are acknowledged. For details on the sample design see *Earnings Distributions in the United States, 1968*, Office of Research and Statistics, 1973, pp. 316–18.

for many of these elderly citizens is welfare. And yet, despite these facts, existing law makes it impossible for many older Americans to raise their standard of living to a comfortable level.

The present law now permits an individual to earn up to $3,000 a year without any reduction in his or her social security benefits. Above that dollar amount, however, he or she must sacrifice a dollar in benefits for every $2 earned. This means that a single person between the age of 65 and 72 who is able and willing to hold down even a modestly paying job must give up every cent of the social security benefits to which a lifetime of work and as much as 35 years of paying into the trust fund entitles him or her.

The Senate Finance Committee has taken an important step toward easing this burden on our older citizens. Under the provisions of the Finance Committee bill, the earnings limitation is raised to $4,500 in 1978 and to $6,000 in 1979. Our amendment, similar to one offered in the House by Representative KETCHUM, would remove any monetary limitation on outside earnings whatsoever by the year 1982.

The total repeal of the outside earnings limitation would benefit some 4 million older workers. This includes 2 million workers whose benefits have been actually denied or reduced as a result of the earnings test. Additionally it is estimated that another 2 million older workers who now are out of the work force would return upon the repeal of the earnings limitation.

There are two concerns which have been raised regarding this amendment. The first is its cost. It would not cost several billion dollars as many have projected. According to the Social Security Administration, the cost of eliminating the restriction entirely would be only $1 billion more than the changes already made by the Finance Committee provisions. It has been estimated that this represents less than a one-tenth of 1 percent payroll tax increase on employers and employees.

The second concern is that this amendment benefits only the very wealthy. According to figures just released by the Census Bureau for 1975, only 6 percent of all workers 65 years of age or older had incomes of more than $20,000 from any source of income. This same report showed that only 11 percent of all families headed by a person over the age of 65—even families with more than one wage earner—had a combined family income of over $20,000.

Even for those few older Americans whose income may be in excess of the $20,000 figure, I feel that these citizens are entitled to collect the social security benefits they had earned over a lifetime of hard work.

This latter fact, Mr. President, leads me to an observation concerning the basic philosophical character of our social security system. At the insistence of President Franklin Roosevelt, the system was designed as a contributory insurance plan instead of simply—as some of his advisers urged—an old-age benefit paid out of general revenues. Mr. Roosevelt's point, which he made very explicit, was that if people paid insurance premiums into a special fund out of their own earnings, no future generation of politicians could ever take it away from them by labeling it a Government handout.

In other words, because of the way the system was consciously designed by one of our greatest Presidents, social security benefits today are a matter of earned right, not Federal largess. It, therefore, seems to me not only mistaken but improper for anyone to try to claim that benefits are and ought to be conditional upon an agreement not to be gainfully employed. Social security was not designed to include a means test. Its benefits are not predicated upon how much private income one might have. One does not have to plead poverty in order to qualify for a monthly social security check. For those who have paid into the system over these many years, the benefit is a matter of right.

Mr. President, that is the philosophy underlying the social security system. It is clear that an earnings limitation, which so weakens the automatic, rightful character of benefit payments, is inconsistent with that philosophy.

Furthermore, the earnings limitation penalizes only those social security recipients who earn wages or are self-employed. Pensions, no matter how large, are not counted in the limitation. Nor is interest and dividend income. The retired corporation executive can enjoy a pension of $50,000 a year and have investment income double that amount and still not lose one penny of social security. But the cabinetmaker or electrician who wants to continue his life's work and be paid for it may have to give up his entire social security check.

That is not fair. It is not sensible. It is not necessary.

Certainly, Mr. President, I do not begrudge the corporation executive the social security payment to which his own contributions entitle him. But I deeply resent the discrimination practiced against working people by a system that penalizes them for the fruits of their own labor. I urge my colleagues to approve this amendment.

Mr. CRANSTON. Mr. President, I have long worked to raise the law's present $3,000 limit on the amount of income people can earn without a reduction of their social security benefits.

Now I am highly gratified that the Senate is about to approve a committee bill which will raise that limit from $3,000 to $6,000, and provide for automatic future increases in that $6,000 limit by increases in the cost of living. These features will allow our present social security beneficiaries to undertake other work and to earn up to $6,000 without a reduction in their social security checks. This is the content, of course, of the action we have just taken to reduce from 72 to 70 the age at which our social security beneficiaries may have unlimited outside earned income without any reduction in their benefits.

Removing the earnings limitation entirely would make a radical change in the character of the social security program. It would convert the social security program from a retirement program to an annuity program. The social security program has always been designed to the needs of our older Americans who have retired from the work force. Lifting the earnings limitation would actually benefit only a very small group of recipients with earned income in excess of the $6,000 provided in the committee bill. Even so, this amendment would add billions of dollars of extra new costs to the severely strained social security system. These costs would have to be made up with added taxes from employers and employees. I believe the committee bill represents a major increase in taxes—an increase which the American people are willing to support. I think it is unwise at this time to add to the major payroll tax increase already provided in this bill.

Mr. LAXALT. Mr. President, I strongly support the amendment offered by the Senator from Arizona. I voted for it in the Finance Committee where it lost by a tie vote and I urge my colleagues to support it now.

To me, the earnings limitation on social security is unfair. It is inequitable. It dampens work incentives. And, it imposes an oppressively high marginal tax rate on those least able to pay. I would prefer to see the earnings limitation abolished outright. But, short of that, I am delighted to support a measure which would phase it out by 1982.

Earlier this year, I introduced S. 1020, a bill which would have the same effect as the Goldwater amendment but which would eliminate the earnings limitation by reducing the age limit 1 year at a time from its present level of 72 down to 65 in 1984, by which time the test would be abolished entirely.

INEQUITY

Mr. President, it is all too easy to argue that virtues of frugality and the need for individuals to make their own provisions for retirement as a theoretical justification for penalizing those who must work to make ends meet because they simply cannot make it on their meager social security allowances. But, that argument ignores the suffering which these individuals must endure because of the retirement test, while others, with substantial investments and alternative pension incomes, utilize social security benefits for pin money.

As a member of the Finance Committee and one who has devoted considerable attention to social security questions, I simply cannot accept the argument that those who must work to live should be penalized, but those who have ample income from other sources may continue to receive full social security

payments. I understand the problem with applying a means test to investment income and I have no intention of going that route. Accordingly, it seems to me that the only practical means for resolving this inequity is to remove the penalty on wage earnings.

WORK INCENTIVES

Personally, I believe that any citizen who wishes to make a productive contribution should be encouraged to do so. As the ranking Republican on the Social Security Subcommittee of the Finance Committee, I recognize the need for a comprehensive look at the financial status of the social security trust funds and, although I support a different fiscal approach from that which the committee ultimately adopted, I am pleased to see the financial status of the trust funds guaranteed by the committee bill. However, within the context of an overall strengthening, I feel we also need to do away with the inequitable and counterproductive retirement test.

Mr. President, as you know, the Senate has recently affirmed the premise that the contributions which the elderly bring to our society by virtue of their diligence and experience should not be arbitrarily discouraged. In H.R. 5383, the Age Discrimination Amendments of 1977, the Senate voted overwhelmingly to increase the mandatory retirement age from 65 to 70. In that vote the Senate made clear that the elderly should be judged on their ability and competence and that their contributions to the work force are to be encouraged rather than discouraged. It seems to me that an abolition of the earnings limitation would be a further reaffirmation of the Senate's faith in the positive contributions of the elderly.

OPPRESSIVE TAX RATE

Mr. President, the economic status of our elderly is a serious national problem. Many who have paid taxes and have contributed to our society all their working lives now find themselves dependent on cash and inkind public income transfer programs. While no stigma should be attached to these programs, those elderly who are able and willing to work should be encouraged to do so. And, most emphatically, those who have to work to make ends meet should not be subject to punitive tax rates by an unfair earnings limitations test.

It has come to my attention that an elderly person earning $4,000 in 1975 would have been subject to a marginal tax rate on $1,480 earned over the social security earnings limitations ceiling of approximately 70 percent. This is equal to the highest rate in the Internal Revenue tax table and one which many tax reform advocates have proposed reducing on the basis of the fact that it is exorbitant. Surely, such a level which has been found excessive for high income individuals should not be imposed on those among our elderly who are seeking only to make ends meet. In my judgment, a government policy which imposes such punitive penalties on a most vulnerable sector of our society is indefensible.

Mr. President, I am pleased to cosponsor the proposal of the Senator from Arizona. I know he has worked long and hard to eliminate the earnings limitation and he deserves the thanks of all of us for his efforts. I certainly will vote with him and I urge all of my colleagues to do likewise.

Mr. JAVITS. Mr. President, for many years I have advocated the phased elimination of the social security earnings limitation. It has long been my belief that older Americans who must work to support themselves should be able to do so without losing their social security benefits. The grave financial situation of the social security system, however, make this phasing question a decisive one.

Secretary Califano has stated that the Goldwater amendment which would remove the earnings limitation altogether would benefit a "privileged minority—1.3 million of the Nation's 22 million retirees." The Secretary has observed that if the retirement test were eliminated, more than half of the new benefits would go to people earning more than $10,000 a year. I realize that some have taken issue with Secretary Califano's analysis, but I feel that it raises sufficient doubts about the effect of the Goldwater amendment that the Congress cannot go all the way at this time in eliminating the earnings limitation.

The administration has also pointed out that the Goldwater amendment will cost approximately $23 billion in the years from 1982–87. Even though this amount may be offset somewhat by increased social security taxes (as well as income taxes) resulting from the continued employment of Americans past age 65, the cost is still sufficiently large to deter us from moving to eliminate the whole earnings limitation at this time. The basic thrust of the social security bill under consideration is to restore the system's financial soundness, and we should not include an amendment which will interfere with this objective. It appears to me that the price tag for the Goldwater amendment as matters stand now is too high.

Consequently, Mr. Chairman, I will support the position of the Finance Committee as modified by the Church substitute, which is to raise the present $3,000 earnings limitation to $4,500 in 1978 and to $6,000 in 1979. After 1979, the $6,000 level would increase automatically as wage levels rise. I will also support the Church amendment which will reduce the upper effective age for the earnings limitation from age 72 to age 70. This amendment will permit people 70 years of age and older to earn more than $6,000 in 1979 (if the committee bill is passed) without incurring a reduction in social security benefits. I believe this approach will help low income people who must work beyond age 65 without paying unreduced benefits to high income individuals who do not need such benefits.

AMENDMENT NO. 1054

(Purpose: Relating to repeal of earnings limitation for workers age 70 and over.)

Mr. CHURCH. Mr. President, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes unprinted amendment No. 1054 in the nature of a substitute to unprinted amendment No. 1052.

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

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

The amendment is as follows:

In lieu of the language proposed to be inserted by the Goldwater amendment (UP–1052) insert the following:

REPEAL OF EARNINGS LIMITATION FOR INDIVIDUALS AGE 70 AND OVER

SEC. . (a) Subsections (c)(1), (d)(1), (f)(1), and (j) of section 203 of the Social Security Act are each amended by striking out "seventy-two" and inserting in lieu thereof "seventy".

(b) Subsection (f)(3) of section 203 of such Act is amended by striking out "age 72" and inserting in lieu thereof "age 70".

(c) Subsection (h)(1)(A) of section 203 of such Act is amended by striking out "the age of 72" and "age 72" and inserting in lieu thereof in each instance "age 70".

(d) The heading of subsection (j) of section 203 of such Act is amended by striking out "Seventy-two" and inserting in lieu thereof "Seventy".

(e) The amendments made by this section shall apply only with respect to taxable years ending after December 31, 1981.

In the matter proposed to be added to sections 3101 and 3111 of the Internal Revenue Code of 1954 by sections 103(a)(1) and 103(b)(1) of the bill:

In paragraph (4) strike out "5.35" and insert in lieu thereof "5.40"; except for calendar year 1981 it shall remain at 5.35;

In paragraph (5) strike out "5.65" and insert in lieu thereof "5.70";

In paragraph (6) strike out "6.10" and insert in lieu thereof "6.15";

In the matter proposed to be added to section 1401 of the Internal Revenue Code of 1954 by section 103(1) of the bill:

In paragraph (5) strike out "8.50" and insert in lieu thereof "8.55"; except for 1981 it shall remain at 8.50;

In paragraph (6) strike out "9.15' and insert in lieu thereof "9.25";

Mr. CHURCH. Mr. President, I shall explain the amendment, and yield myself such time as I may require.

Before proceeding, I first ask unanimous consent that Mr. Ronald Davis be accorded the privilege of the floor to provide technical assistance during the consideration of my amendment.

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

Mr. CURTIS. I ask unanimous consent that Mr. Robert Myers, an actuary consultant on the Committee on Finance, be accorded the privilege of the floor during consideration of this measure and vote.

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

Mr. BAYH. Mr. President, will the Senator yield 30 seconds for a unanimous consent?

Mr. CHURCH. I yield.

Mr. BAYH. I make a similar request for Barbara Dixon, of my staff, during debate and consideration of this bill, amendments thereto, and votes thereon.

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

Mr. CHURCH. Mr. President, it is unnecessary for me to speak at length.

In offering the amendment that has already been characterized as one intended to gut the Goldwater amendment, I feel like a man alone on the beach watching an approaching tidal wave, because I fully understand the tidal wave appeal of the amendment offered by the distinguished Senator from Arizona.

But I think that if the Members of the Senate had an opportunity to analyze his amendment carefully, if they had been present during the debate to hear the arguments of the Senator from Texas (Mr. BENTSEN), the manager of the bill (Mr. NELSON), the able junior Senator from New York, and the distinguished chairman of the Finance Committee, the vote would be different.

There is no doubt who the beneficiaries of the Goldwater-Dole amendment will be. They will be the well-to-do, those who need the benefits the least. The beneficiaries of this amendment will be the doctors, the lawyers, the engineers, the architects, the business executives, and the Wall Street financiers, those professional people who tend to continue to work after the age of 65. They work because they like their professions. They are engaged actively in them. And they are lucrative professions, to be sure. These people are not complaining about being denied social security. They do not expect to get it, while they continue to work. It will come as a complete surprise to them if this amendment is agreed to and all at once they are presented with this largesse from the social security fund which they neither asked for nor need. This is a largesse, as it has been explained by the manager of the bill, which they have not paid for through their contributions to social security, but which will be paid for by ordinary working people through their future payroll taxes.

Mr. President, it has also been pointed out that the effect of the Goldwater amendment will be to transform, in a single stroke, a retirement program into an annuity. That was not the purpose of social security when it was first adopted. It was to be, and to this moment has continued to be, a retirement program. The reason the retirement test was included in social security was to provide a method for determining whether or not a person was retired. If we transform social security into an annuity program, then it is irresponsible to say that it will not cost anything. The truth is that it will constitute a tremendous new burden upon a fund that was never intended to be an annuity fund in the first place.

You cannot, with a single stroke, convert social security from a retirement system to an annuity system and say, in the same breath, that it will not cost anything. You cannot put the working rich into this system, and pay them $8,400 a year, out of a fund into which they have made no commensurate contribution, and then say it will cost next to nothing.

The costs are heavy, and I will include in the RECORD from the Office of the Actuary of Social Security itself the difference between the costs of the Goldwater amendment and the amendment I have offered and will now explain.

Mr. KENNEDY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. Mr. President, I am happy to yield to the Senator from Massachusetts for a unanimous-consent request.

Mr. KENNEDY. I ask unanimous consent that Mr. Parker and Mr. Urwitz, of my office, be accorded the privilege of the floor during consideration of this bill.

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

Mr. CHURCH. Mr. President, I listened with some amusement to the argument of the Senator from Kansas when he said he was not really interested in these wealthy people by allowing them to draw out benefits from social security, once they become 65, regardless of what their income may be and regardless of whether or not they continue to work. No, he said his concern was with the great mass of older people who will benefit from the Goldwater amendment.

I am also interested in the more typical beneficiary, that working man or woman, on a very modest retirement income, who has to do some work in order to augment his or her retirement. We want to eliminate the need for anybody on social security to be overly restricted in what they may earn, after retirement.

Mr. President, I have not only been aware of the problem imposed by a limitation too severe, but I fully sympathize. I cannot remember a time when I have not voted in favor of increasing the retirement test, in an effort to catch up with the rising cost of living.

I agree that, despite past efforts to liberalize the retirement test, the present amount is too restrictive. The $3,000-a-year limitation now does impose too severe a limitation upon the right of people on limited retirement incomes to earn extra money for the purpose of augmenting their retirement.

But, Mr. President, the committee bill takes care of those people. The ones who need it are being provided for. Next year, the retirement test jumps from a projected $3,240 of permissible earned income to $4,500, before social security retirement benefits are reduced. In 1979, the retirement test jumps all the way to $6,000 that can be earned before the first dollar in social security benefits is lost. My amendment would not change these figures in the Finance Committee bill.

Furthermore, Mr. President, I agree that, at some point, at an appropriate age level, the retirement test should no longer apply. Under present law the retirement test no longer applies at the age of 72. Then an aged individual can receive his or her social security benefits whether or not that person retires. Otherwise, some persons may work all their lives and never receive social security benefits, even though they paid the social security tax.

My amendment would reduce the age to 70. I think 70 is the appropriate age level because it conforms with an action taken by Congress within the past few weeks to extend the mandatory retirement age from 65 to 70.

Now, those Senators who participated in that debate will remember one of the reasons advanced for extending the mandatory retirement age in this country from 65 to 70 was that this would provide an incentive for older people to continue to work which, in turn, could ease the heavy burden on the social security fund.

Well, I submit, Mr. President, that we are acting in a completely inconsistent way if after raising the mandatory retirement age to 70, on the strength of the argument that this would ease the burden on the social security fund by permitting people who wanted to continue to work to do so, we turn around and adopt the Goldwater amendment which has just the opposite effect by allowing them to receive social security anyway, whether or not they retire.

Thus, the whole incentive is eliminated in a single stroke, and the one action of Congress would be in contradiction with the other. So, Mr. President, the first argument I would make for my amendment is that 70 is the logical age at which social security retirement benefits should be paid, whether or not the person chooses to continue to work. At that point, we could logically say that since we have established, by law, the age of 70 as the mandatory retirement age for all Americans, then social security beneficiaries may receive their benefits whether or not they continue to work, regardless of their income, and without the earnings limitations imposed by a retirement test.

The second reason I would advance in support of my amendment is that it is simply too costly to adopt the Goldwater amendment.

Mr. President, we have asked the Office of the Actuary for the Social Security Administration to provide a comparison of the costs between the Goldwater amendment, which would eliminate the retirement test at the age of 65, and my amendment which would eliminate that test at the age of 70. Since both amendments take effect beginning in the year 1982, here is the comparison: In that year, 1982, the added costs to the social security system imposed by the Goldwater amendment would be $2.4 billion as compared to $0.4 billion for my amendment.

In 1983, the cost of the Goldwater amendment, the added cost, would be $2.5 billion as compared to $0.4 billion.

In 1984, the cost would be $2.5 billion as compared to $0.4 billion; in 1985, $2.6 billion as compared to $0.4 billion; in

1986, $2.7 billion as compared to $0.4 billion; and in 1987, $2.7 billion as compared to $0.4 billion.

So, in each of these years, following the time my amendment would take effect, the Goldwater amendment would cost about $2 billion a year more than the amendment I am offering. These figures are given to us by the Office of the Actuary of the Social Security System.

I ask unanimous consent that a table of the comparative costs of the two amendments be printed in the RECORD at this point.

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

Cost over committee bill for lowering retirement test exempt age from 72 to 65, or 70, beginning in 1982.

[In billions]

Calendar year	65	70
1982	$2.4	$0.4
1983	2.5	.4
1984	2.5	.4
1985	2.6	.4
1986	2.7	.4
1987	2.7	.4
Total	15.4	----

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

Mr. CHURCH. Yes, I will be happy to yield.

Mr. DOLE. Just to clarify what the Senator put in the RECORD, is this over and above the committee amendment, being the additional cost?

Mr. CHURCH. Yes. These figures are over and above the cost of the committee bill, comparing the cost of the amendments.

Mr. DOLE. The Senator from Kansas points out that we have different figures that would indicate another conclusion, so it just depends on whose figures are being used.

Mr. CHURCH. I can only say we have gone through the Social Security System for these figures, and I think they are the most accurate we can get.

Mr. DOLE. And the Social Security Administrator is not under the system.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, for these reasons I hope very much that this substitute amendment will be adopted. In combination with the committee bill, it does justice. All those who need the relief will receive it. We will not create a completely unjustified bonanza for the richest people in the country, who neither need it nor want it, and we will reduce the age at which the retirement test will be totally abolished to an age that conforms with the mandatory retirement age that has just been established by Congress, and thus bring the two systems into conformity.

Mr. President, I am willing to proceed to a vote on my amendment at any time that the opponents of the amendment are willing to yield back the remainder of their time.

I must say this, however: I heard the Senator from Kansas say earlier that there may be a motion to table my amendment. I just want him to know that if he moves to table this amendment, then it will be my purpose to move to table the Goldwater amendment, in the event that my amendment fails.

Mr. GOLDWATER. Mr. President, we fully expect that. We have been apprised, and in the interests of time, we have no further use for our time and are prepared to yield it back.

Mr. DOLE. Mr. President, may I have one moment, before the Senator from Arizona yields back his time and makes his motion to table?

Mr. GOLDWATER. Yes.

Mr. DOLE. I just want to point out, as the Senator from Arizona has and the Senator from Kansas tried to do, that the argument is predictable. We understand the Committee on Aging coming to the floor and trying to knock out the effect of the Goldwater-Dole amendment on 8.1 million senior citizens, who are supposedly wealthy and do not need nor want it.

But I ask the Senator, who are they? Doctors and lawyers, perhaps? But what about the teachers, the barbers, the small farmers? I do not think we are going to be stampeded on this floor by glib statistics that do not show anything. I think we will keep in mind the 8.1 million Americans the Senator from Idaho is trying to exclude from the benefits under the amendment of the Senator from Arizona.

Mr. NELSON. Mr. President, I would say to the distinguished Senator from Arizona and the distinguished Senator from Kansas that I wanted to move to table, and I have moved to table, without success in some instances, every other amendment, because Senators said they wanted a straight up or down vote.

I wonder if we could have a straight up or down vote on the Church amendment also, without the Senator making a motion to lay on the table.

Mr. DOLE. Why do we not just have a motion to table each of them? Then we would have other options.

Mr. NELSON. That was the option the Senator from Wisconsin gave up at the request of the Senator from Arizona and the Senator from Kansas.

Mr. DOLE. That was to obtain a time limitation, which we were eager to do, and wanted to accommodate the Senator.

Mr. NELSON. Except that I have no objection to voting on the merits of both amendments. I think that would be the most direct and efficient way to proceed.

Mr. DOLE. I do not quarrel with the Senator's motives in trying to substitute his amendment for the Goldwater-Dole amendment. Therefore, I would think we would want to table his amendment and come back to the merits of what we thought we came to debate, anyway.

Mr. CHURCH. If we are going to have tabling motions, I think tabling motions should apply to both cases.

Mr. GOLDWATER. Mr. President, has all remaining time been yielded back?

Mr. NELSON. I just wish to say my agreement was that I would not move to table, but I would hope the amendment would be tabled if the motion is made, because I am against the amendment.

Mr. GOLDWATER. Mr. President, I move to lay on the table the amendment to my amendment offered by the Senator from Idaho.

The PRESIDING OFFICER (Mr. PELL). Has all remaining time been yielded back on the substitute?

Mr. CHURCH. I yield back the remainder of my time, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the motion to lay on the table the substitute amendment offered by the Senator from Idaho (Mr. CHURCH). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arizona (Mr. DECONCINI), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Tennessee (Mr. SASSER) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 33, nays 53, as follows:

[Rollcall Vote No. 620 Leg.]

YEAS—33

Allen	Griffin	Randolph
Baker	Hansen	Roth
Bartlett	Hatfield	Sparkman
Bayh	Helms	Stafford
Chafee	Laxalt	Stevens
Curtis	Lugar	Stone
Danforth	McClure	Talmadge
Dole	Morgan	Thurmond
Domenici	Packwood	Tower
Garn	Pell	Wallop
Goldwater	Percy	Young

NAYS—53

Anderson	Eagleton	Matsunaga
Bellmon	Eastland	McGovern
Bentsen	Ford	McIntyre
Biden	Glenn	Melcher
Brooke	Gravel	Metcalf
Bumpers	Hart	Metzenbaum
Burdick	Haskell	Moynihan
Byrd, Harry F., Jr.	Heinz	Nelson
Byrd, Robert C.	Hollings	Nunn
Cannon	Inouye	Proxmire
Case	Jackson	Ribicoff
Chiles	Javits	Riegle
Church	Johnston	Sarbanes
Clark	Kennedy	Schweiker
Cranston	Leahy	Stennis
Culver	Long	Stevenson
Durkin	Magnuson	Williams
	Mathias	Zorinsky

NOT VOTING—14

Abourezk	Huddleston	Sasser
DeConcini	Humphrey	Schmitt
Hatch	McClellan	Scott
Hathaway	Muskie	Weicker
Hayakawa	Pearson	

So the motion to lay on the table was rejected.

FISHERY AGREEMENT WITH MEXICO

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9794.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 9794) entitled "An Act to bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act."

Mr. STEVENS. Mr. President, these are the amendments for the NOAA reorganization to the Mexican GIFA bill. I move that the Senate insist on its amendment.

The motion was agreed to.

Mr. NELSON. Mr. President, I yield briefly to the Senator from Oregon (Mr. HATFIELD) for not to exceed 2 minutes.

NATIONAL FOREST SYSTEM LANDS IN OREGON

Mr. HATFIELD. I thank the Senator from Wisconsin.

Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7074.

The PRESIDING OFFICER laid before the Senate H.R. 7074 an act to provide improved authority for the administration of certain National Forest System lands in Oregon, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. HATFIELD. Mr. President, prior to Senate action on H.R. 7074, there are several points I would like to make for the purpose of clarification. The conclusions have been affirmed by the entire Oregon delegation.

Mr. President, in the last few days a question has arisen about the burden of proof in any arbitration proceedings that might result from the passage of this legislation.

Mr. President, I think it inadvisable to include rigid rules with respect to the procedure to be used by an arbitration board should it ever be called into being. It may be that by requiring the contentions of the parties and the decision of the board to be in writing that we have already gone too far in that direction, though I believe not, and that a record as required is desirable.

But arbitration was included in this bill as a compromise to assure the city of Portland what the authors considered to be its legitimate and proper interest in the quality and the quantity of the water, without invading the responsibility which the Federal Government owes to all Americans to manage the national forests in the national interest. It is a substitute for court action. It is informal: one has the expertise of a special tribunal as opposed to a judge trained only in the law. It is intended to save time, expense, and trouble, as opposed to the costly, prolonged and technical procedures of the court. It is not so much an adversary proceeding as a mutual effort to get at the facts. For that reason the board has power to secure and consider evidence on its own motion.

If we get into questions of burden of proof then we must go further and define the quantum of evidence necessary to sustain it, thence to formal rules of evidence, and the simple and informal process is no more.

In most arbitration proceedings the arbitrators simply get the facts and decide the issues without even mentioning burden of proof. It has been said that: "To insist that the complaining party carries the burden of proof is manifestly absurd. Neither side has a burden of proof or disproof, but both have an obligation to cooperate in an effort to give the arbitrator as much guidance as possible."

It is the intent of this bill that the arbitration board should have flexibility on a case-by-case basis to speak or not in terms of burden of proof, and, if that would be helpful to a decision, whether to assign that burden to one party or the other. I believe that both parties can be expected to produce all of the evidence available and then the Board can make a factual decision on a scientific basis.

A second issue involves decisions of the Arbitration Board. Any decision of the Arbitration Board created by this bill would have to conform to law. I would say further to the Senator that the Board is primarily to determine facts, that is the effect or significance of the delineated actions of the Secretary on water quality. There is no intent, and no language in the bill, that would suggest that the Board's decision could in any way be contrary to Federal law.

Finally, Mr. President, during consideration of this bill in the House, a question was raised as to the meaning of section 3(e) of the bill. I would like to reaffirm, as Congressman DUNCAN has, that it is a restatement or codification of case law traditionally applicable to cases of the type referred to against a governmental agency or official. I do not believe it expands or restricts existing law.

Mr. President, I should like to point out that this bill involves a compromise and credit for it and should be shared by several parties. Congressman ROBERT DUNCAN of Oregon has done an excellent job in moving this bill through the House and in bringing the Oregon delegation together in support of this approach. Mayor Neil Goldschmidt of Portland and the Portland City Council have devoted many hours to the Bull Run issue and are to be congratulated for an excellent job. I also wish to thank Senator LEE METCALF for chairing hearings on this legislation and for his leadership in resolving this issue.

To summarize: This bill has had but one major purpose, in my opinion, to protect the quality and quantity of Portland and surrounding communities source of water—to put in place a mechanism to quickly resolve any disputes involving degradation of water quality.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. HATFIELD. I move to reconsider the vote by which the bill was passed.

Mr. BARTLETT. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

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

The motion to lay on the table was agreed to.

Mr. HATFIELD and Mr. DOLE addressed the Chair.

Mr. NELSON. Mr. President, may I make an inquiry?

All time has expired and we now proceed to a vote on the Church amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. NELSON. I yield to the Senator from Kansas for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. DOLE. Is the pending business the Church amendment upon which all time has been yielded back? Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the Church amendment.

Mr. DOLE. A further parliamentary inquiry: If the Church amendment is adopted, then the vote would come—the Church amendment is an amendment to the Goldwater amendment. Is that correct?

Mr. CHURCH. Yes, it is a substitute.

The PRESIDING OFFICER. The second vote, if it did pass, would be on the Goldwater amendment as amended.

Mr. DOLE. I wonder if the Senator from Kansas will be able to proceed for 2 minutes on the Church amendment. Maybe we could avoid a rollcall vote.

Mr. NELSON. I ask unanimous consent that each side be allowed 2 minutes to speak on the Church substitute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1054

Mr. DOLE. Mr. President, since there are Senators here who were not present before, I think many Senators were persuaded by what they have heard down in the well about the Church amendment costing 20 percent of the Goldwater

amendment. What they were not told in the well—and that is not an accurate statement, either—is that we just knocked out 8 million senior citizens.

Those who voted "no" just took care of 8 million senior citizens who have no right to work any more. Their earning limitation is going to be the same under the committee amendment as modified by the Church amendment.

There are about 23 million people over age 65 and 12 million between 65 and 72. What Senator CHURCH does is cut it off at 70. We have just eliminated about 8.1 million Americans as far as earning limitation. I do not think that was explained. There was a great deal of intensive lobbying going on by both sides to Senators who came into the floor. It seems to the Senator from Kansas that if the Senators knew they were denying benefits to 8 million people, they may not have voted the way they voted. I do not suggest that that be changed at this point, but I do suggest that perhaps the facts were not available at the time.

Mr. NELSON. Mr. President, I should like to respond to that. We do not eliminate 8 million people at all.

The Committee on Finance sets an income limit of $6,000. That limitation affects only 65,000 people who today are over age 65, out of the 22 million who are over age 65 right now.

That is all it does. The Finance Committee supports the Church amendment.

The PRESIDING OFFICER. Is all time yielded back?

All time is yielded back.

The yeas and nays have not been ordered on this.

Mr. CLARK. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 59, nays 28, as follows:

[Rollcall Vote No. 621 Leg.]

YEAS—59

Abourezk	Curtis	Matsunaga
Anderson	Durkin	McGovern
Bayh	Eagleton	McIntyre
Bellmon	Ford	Melcher
Bentsen	Glenn	Metcalf
Biden	Gravel	Metzenbaum
Brooke	Hart	Moynihan
Bumpers	Haskell	Nelson
Burdick	Hatfield	Nunn
Byrd, Harry F., Jr.	Heinz	Proxmire
	Hollings	Ribicoff
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Case	Javits	Sarbanes
Chafee	Johnston	Schweiker
Chiles	Kennedy	Sparkman
Church	Leahy	Stafford
Clark	Long	Stevenson
Cranston	Magnuson	Williams
Culver	Mathias	Zorinsky

NAYS—28

Allen	Hansen	Stennis
Baker	Helms	Stevens
Bartlett	Laxalt	Stone
Danforth	Lugar	Talmadge
Dole	McClure	Thurmond
Domenici	Morgan	Tower
Eastland	Packwood	Wallop
Garn	Pell	Young
Goldwater	Percy	
Griffin	Randolph	

NOT VOTING—13

DeConcini	Humphrey	Schmitt
Hatch	McClellan	Scott
Hathaway	Muskie	Weicker
Hayakawa	Pearson	
Huddleston	Sasser	

So unprinted amendment No. 1054 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Arizona, as amended.

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.

Mr. ROBERT C. BYRD. Mr. President, the question is——

UP AMENDMENT NO. 1052, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Arizona (Mr. GOLDWATER), as amended.

Mr. ROBERT C. BYRD. As amended by the Church amendment. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arizona (Mr. DECONCINI), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Tennessee (Mr. SASSER) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from New Mexico (Mr. SCHMITT) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 79, nays 4, as follows:

[Rollcall Vote No. 622 Leg.]

YEAS—79

Abourezk	Eagleton	Melcher
Allen	Ford	Metcalf
Anderson	Garn	Morgan
Baker	Glenn	Moynihan
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart	Pell
Biden	Haskell	Percy
Bumpers	Hatfield	Proxmire
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Schweiker
Case	Javits	Sparkman
Chafee	Kennedy	Stafford
Chiles	Laxalt	Stevens
Church	Leahy	Stevenson
Clark	Long	Stone
Cranston	Lugar	Thurmond
Culver	Magnuson	Tower
Curtis	Mathias	Wallop
Danforth	Matsunaga	Williams
Dole	McClure	Young
Domenici	McGovern	Zorinsky
Durkin	McIntyre	

NAYS—4

Eastland	Stennis	Talmadge
Metzenbaum		

NOT VOTING—17

Brooke	Huddleston	Ribicoff
DeConcini	Humphrey	Sasser
Goldwater	Johnston	Schmitt
Hatch	McClellan	Scott
Hathaway	Muskie	Weicker
Hayakawa	Pearson	

So Mr. GOLDWATER'S UP amendment (No. 1052), as amended, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. NELSON and Mr. CULVER addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. CHURCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. NELSON. I yield.

Mr. CHURCH. Mr. President, the distinguished senior Senator from West Vir-

ginia (Mr. RANDOLPH) has asked that his name be added as a cosponsor to my amendment, and I ask unanimous consent that that be done.

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

Mr. NELSON. It is my understanding that we would move to Senator CURTIS' amendment next, and we will agree upon a time limitation, if there is no objection, which will be short.

The PRESIDING OFFICER. Under the previous agreement, we are supposed to move to the amendment of the junior Senator from Arizona (Mr. DECONCINI).

Mr. CURTIS. Mr. President, will the Senator yield to me?

Mr. NELSON. Yes.

Mr. CURTIS. I have had conversations with the distinguished Senator from Indiana (Mr. BAYH), who is going to call up the DeConcini amendment, and also with Senator ROTH, both of whom were listed ahead of the Curtis amendment.

The request has been cleared with the distinguished Senator from Indiana and with the distinguished Senator from Delaware that I may move ahead and present my amendment as the next amendment, with protection to those two gentlemen that they follow in that order, and I am willing to agree to a 10-minute limitation, 5 minutes on each side.

Mr. NELSON. Is that in the unanimous-consent request?

Mr. CURTIS. And that there will be a rollcall.

Yes.

Mr. NELSON. That is agreeable with me.

Mr. CURTIS. I ask unanimous consent that notwithstanding the previous order the Curtis amendment will be in order next, with a limitation of 10 minutes debate, 5 minutes on each side, and that it be followed by the DeConcini amendment to be offered by Senator BAYH, and followed by the amendment of the distinguished Senator from Delaware (Mr. ROTH).

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I personally will not object, and I hope there will be no objection, will the Senator limit his request at this moment to that of calling up his amendment. Let me be sure the 10-minute limitation can be cleared with a Senator.

Mr. CURTIS. My problem is this: These two gentlemen are yielding to me for this purpose as part of the package deal.

I withdraw it momentarily.

Mr. CULVER addressed the Chair.

Mr. NELSON. Mr. President, I yield to the Senator from Iowa for 2 minutes.

SEXUAL EXPLOITATION OF CHILDREN—CONFERENCE REPORT

Mr. CULVER. Mr. President, I submit a report of the committee of conference on S. 1585 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1585) to amend title 18, United States Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, 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 House proceedings of the RECORD of today.)

Mr. CULVER. Mr. President, I am pleased to bring before the Senate the conference report on S. 1585, the Protection of Children Against Sexual Exploitation Act of 1977. This report was unanimously approved by the members of the conference committee, and I strongly urge the Senate to adopt it in order to protect our Nation's young people from two of the most insidious forms of child abuse.

Specifically, S. 1585 would greatly increase the ability of the Federal Government to combat the increasing use of children in pornographic materials and juvenile prostitution. I am confident that it will prove to be effective in cracking down on this type of vicious exploitation of innocent children.

As reported by the conference committee, S. 1585 would make three related changes in title 18 of the United States Code. First it would add a new section 2251 that would make it a Federal crime to cause any child under the age of 16 to engage in sexually explicit conduct for the purpose of producing materials that are to be mailed or transported in interstate commerce. It also adds a companion section that prohibits the sale or distribution of any obscene materials that depict children engaging in sexually explicit conduct if such materials have been mailed or transported in interstate commerce. Finally, it amends section 2423 of title 18 to prohibit the interstate transportation of both males and females under 18 years of age for the purpose of engaging in prostitution or other sexually explicit conduct for commercial purposes.

In short, Mr. President, S. 1585 is designed to go as far as the Federal Government can go in eliminating child pornography and child prostitution. It is a tough bill that provides for 10 years in prison and $10,000 in fines for first offenders, and minimum penalties of 2 years in prison and maximum penalties of 15 years in prison and $15,000 fines for repeat offenders. It is also a comprehensive bill that deals with the production, sale and distribution of child pornography and with juvenile prostitution. Finally, it is the bill that the Department of Justice and other Federal authorities have told us they need to go after the pornographers and the child-abusers that seek to profit off our young.

Mr. President, the presentation of S. 1585 today on the Senate floor is the result of intensive hearings and investigations conducted by the Judiciary Committee and its Juvenile Delinquency Subcommittee. Our subcommittee heard not only from the official sources and the experts but also from those who have had first-hand experience with child pornography and prostitution. We heard from local officeholders and prosecutors, from undercover and newspaper investigators and from police officers who had conducted one of the few successful arrests of a child pornography production ring in the Nation. We also heard testimony from two convicted child pornographers, and a 17-year-old boy who had sold himself on the streets for over 2 years as a prostitute and as an actor in pornographic movies. In addition, we received extensive testimony from the Department of Justice and from leading constitutional scholars. Finally, Mr. President, I wish to note that we have received thousands of letters from parents, church groups and others who were disgusted by these outrageous abuses of our young.

It truly has been a saddening experience to conduct these hearings and investigations. Through them, however, we have learned a great deal about the sexual abuse of children through pornography and prostitution. It is a big business involving millions of dollars in profits. Moreover it is often a highly organized industry that relies heavily on the use of the mails and other instrumentalities of interstate and foreign commerce. And unfortunately we found that all too often existing Federal laws do not adequately protect children from such abuses, a situation that we intend to correct through the provisions of S. 1585.

Perhaps most distressing, however, we found that it is a business that preys on runaway and alienated youth, on children that are unloved and unwanted and struggling to survive on their own. They often are picked up at bus stations, hamburger stands, or amusement parks where for a little money, or a gift, or even for some attention they are persuaded to submit to a variety of sexual acts. Such encounters cannot help but have a deep psychological impact on these youngsters and jeopardize their chance of developing normal affectionate relationships in the future.

While S. 1585 meets an urgent national need in imposing strict criminal sanctions on two vicious forms of child abuse—child pornography and prostitution—we must bear in mind that these offenses are just two aspects or symptoms of a larger context of social problems that confront the Nation. Broken homes, runaway children, emotional illness, alcohol and drug problems, and widespread child abuse are all parts of the social pattern in which child pornography and prostitution thrive. The Subcommittee to Investigate Juvenile Delinquency has long been concerned with the entire range of these problems that are so destructive of our young and that further the drift of abused, neglected, and mixed-up children who have not committed crimes into later hard core criminality. We must continue to press for long range as well as short range solutions to these specific problems and for means to strengthen the institutions—the family, the community, the

school, and the church—on which the future of the Nation so surely depends.

Mr. President, it has been a very saddening experience to investigate the abuses of child pornography and child prostitution. If there has been one bright spot, however, it has been the support that we have received from our colleagues. In particular, I would like to cite the distinguished contributions from the senior Senator from Maryland, Senator MATHIAS. As the coauthor of S. 1585 and the ranking minority member of the Subcommittee To Investigate Juvenile Delinquency, he has devoted a great deal of time and effort to the development and passage of this bill.

I also wish to express my appreciation to the senior Senator from Delaware, Senator ROTH, for his outstanding contributions. As the author of the first bill to deal with child pornography, he should be commended for bringing this problem to the attention of the Senate and the Nation and for taking the lead in efforts to prohibit this outrageous form of child abuse.

Due to this widespread support S. 1585 was reported unanimously by the Committee on the Judiciary and ultimately cosponsored by 57 Senators. It passed the Senate by a vote of 85 to 1 on October 10, 1977. Shortly thereafter, the House passed a similar but different bill by an equally overwhelming margin. Thus, the two bills were sent to a House-Senate conference committee to reconcile a number of differences.

This same spirit of cooperation soon manifested itself in the deliberations of the conference committee. Although there were sincere differences of opinion between the two Houses, all of the conferees were seeking to produce the strongest possible bill.

As chairman of the Senate conferees, I am pleased to report that the conferees agreed to report a bill that is very similar to the bill passed by the Senate on October 10. The details of these agreements are set forth in the conference report and the joint explanatory statement of the managers. I would like to comment briefly, however, on three of these agreements.

First, in its debate on S. 1585 on October 10, the Senate adopted an amendment offered by Senator BAYH concerning the use of minors engaging in sexually explicit conduct in live performances. This provision was accepted in part by the conference. Under the provisions of the conference substitute, it will be a Federal crime to transport children across State lines to engage in commercialized, live, sexually explicit performances.

The Senate bill also contained a provision that was added in committee by Senator DECONCINI that imposed minimum penalties for both first and second offenders and increased maximum penalties for second offenders. On this question the conferees agreed to a compromise that eliminates the minimum for first offenders but provides for both minimum and increased maximum penalties for repeat offenders.

Finally, the Senate bill had four sections dealing with the sale and distribution of materials depicting minors engaging in sexually explicit conduct. Three of these sections proscribed the sale and distribution of such materials if they were obscene by amending the existing obscenity laws to impose more severe penalties if the obscene materials depicted minors engaging in sexually explicit conduct. The fourth provision, the amendment offered by Senator ROTH, prohibited the sale and distribution of any materials that depicted minors engaging in sexually explicit conduct.

The legislation passed by the House did not contain any comparable provisions on sale and distribution and a majority of the House conferees opposed the inclusion of any such provisions in the conference substitute on the grounds that the penalties under the existing obscenity statutes were sufficient, and the provisions of the Roth amendment raised severe first amendment questions.

After protracted debate and several disagreeing votes between the Senate and House conferees, the House conferees offered compromises on the Bayh and DeConcini amendments and offered to accept a provision on sale and distribution combining the four Senate sections on sale and distribution into one by inserting the word "obscene" in the Roth amendment.

The question of possible first amendment problems with the Roth amendment was thoroughly debated in the Senate on October 10. It was the decision of the Senate that despite these constitutional questions, the provisions of the Roth amendment should be included in the bill. Because of this vote in the Senate, the Senate conferees initially rejected this package of compromises. But finally after several hours of discussion, the House conferees decided to make significant concessions on the DeConcini amendment and a majority of the Senate conferees agreed to the total package of compromises.

Mr. President, as chairman of the Senate conferees and a coauthor of the original legislation, I strongly urge the Senate to adopt the conference report for the following reasons:

It represents a fair compromise between the provisions of the separate bills passed by each House.

It is probably the best compromise we could achieve even if we returned to conference. A majority of the House conferees were adamant in not accepting any version of the Roth amendment without the insertion of the word "obscene."

The insertion of the word "obscene" does have advantages—

It eliminates serious questions as to the constitutionality of the Roth amendment. Convictions obtained under this provision will not be struck down on appeal because of conflict with the first amendment.

It eliminates the possibility that the Justice Department might decide as a matter of policy not to prosecute under the Roth provision because of their doubts that "the proposed legislation would withstand constitutional challenge."

It allows the Supreme Court, if it subsequently adopts a less stringent standard for obscenity in general or for obscenity in materials that depict children, to automatically read these new standards into the provisions of the conference substitute.

Finally and most importantly, it will not make any significant difference in the desired application of the Roth amendment. Practically all of the materials that we would seek to proscribe are obscene under the current Miller standards. I know of no case of child pornography that was brought to the attention of the subcommittee that would not be prohibited under S. 1585 as reported by the conference committee.

In short, Mr. President, S. 1585, as reported by the conference committee, is a good, strong, comprehensive bill that represents a fair and just compromise between the legislation passed by the Senate and the House. In addition it is the bill that will give Federal law enforcement personnel and Federal prosecutors the tools they asked for to mount an effective attack on child pornography and child prostitution.

Therefore, I urge all of my colleagues to support the unanimous conference report on S. 1585 so that we may begin to combat this exploitation of our young people.

Mr. President, I ask unanimous consent that the text of S. 1585, as reported by the conference committee, be included in the RECORD at the conclusion of my remarks.

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

That this Act may be cited as the "Protection of Children Against Sexual Exploitation Act of 1977".

Sec. 2. (a) Title 18, United States Code, is amended by inserting immediately after chapter 109 the following:

"Chapter 110—SEXUAL EXPLOITATION OF CHILDREN

"Sec.
"2251. Sexual exploitation of children.
"2252. Certain activities relating to material involving the sexual exploitation of minors.
"2253. Defintions for chapter.

"§ 2251. Sexual exploitation of children

"(a) Any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, shall be punished as provided under subsection (c) of this section, if such person knows or has reason to know that such visual or print medium will be transported in interstate or foreign commerce or mailed, or if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(b) Any parent, legal guardian, or person having custody or control of a minor who knowingly permits such minor to engage in, or to assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct shall be punished as provided under subsection (c) of this section, if such parent, legal guardian, or person knows or has reason to know that such visual or print medium will be transported in interstate or foreign comerce or mailed or

if such visual or print medium has actually been transported in interstate or foreign commerce or mailed.

"(c) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $15,000, or imprisoned not less than two years nor more than 15 years, or both.

"§ 2252. Certain activities relating to material involving the sexual exploitation of minors

"(a) Any person who—

"(1) knowingly transports or ships in interstate or foreign commerce or mails, for the purpose of sale or distribution for sale, any obscene visual or print medium, if—

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicits such conduct; or

"(2) knowingly receives for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene visual or print medium that has been transported or shipped in interstate commerce or foreign commerce or mailed, if—

"(A) the producing of such visual or print medium involves the use of a minor engaging in sexually explicit conduct; and

"(B) such visual or print medium depicits such conduct;

shall be punished as provided in subsection (b) of this section.

"(b) Any person who violates this section shall be fined not more than $10,000, or imprisoned not more than 10 years, or both, but, if such person has a prior conviction under this section, such person shall be fined not more than $15,000, or imprisoned not less than two years nor more than 15 years, or both.

"§ 2253. Definitions for chapter

"For the purposes of this chapter, the term—

"(1) 'minor' means any person under the age of sixteen years;

"(2) 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); or

"(E) lewd exhibition of the genitals or pubic area of any person;

"(3) 'producing' means producing, directing, manufacturing, issuing, publishing, or advertising, for pecuniary profit; and

"(4) 'visual or print medium' means any film, photograph, negative, slide, book, magazine, or other visual or print medium.".

(b) The table of chapters for title 18, United States Code, and for part I of title 18, United States Code, are each amended by inserting immediately after the item relating to chapter 109 the following:

"110. Sexual exploitation of children_ 2251".

SEC. 3. (a) Section 2423 of title 8, United States Code, is amended to read as follows:

"§ 2423. Transportation of minors

"(a) Any person who transports, finances in whole or part the transportation of, or otherwise causes or facilitates the movement of, any minor in interstate or foreign commerce, or within the District of Columbia or any territory or other possession of the United States, with the intent—

"(1) that such minor engage in prostitution; or

"(2) that such minor engage in prohibited sexual conduct, if such person so transporting, financing, causing, or facilitating movement knows or has reason to know that such prohibited sexual conduct will be commercially exploited by any person;

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(b) As used in this section—

"(1) the term 'minor' means a person under the age of eighteen years;

"(2) the term 'prohibited sexual conduct' means—

"(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) sado-masochistic abuse (for the purpose of sexual stimulation); or

"(E) lewd exhibition of the genitals or pubic area of any person; and

"(3) the term 'commercial exploitation' means having as a direct or indirect goal monetary or other material gain.".

(b) The table of sections for chapter 117 of title 18, United States Code, is amended by striking out the item relating to section 2423 and inserting in lieu thereof the following:

"2423. Transportation of minors.".

SEC. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Mr. CULVER. Mr. President, we have successfully reached a unanimous agreement in the conference on this measure. It has been cleared on both sides of the aisle.

I move the adoption of the conference report.

Mr. MATHIAS. Mr. Speaker, I am pleased to be able to speak today to urge adoption of the conference report on S. 1585, a bill prohibiting the sexual exploitation of children. The report comes to the Senate after its unanimous adoption by the conference committee earlier this week.

S. 1585 is designed to provide Federal prosecutors with effective statutory tools to combat two pernicious forms of child abuse which have only recently come to public attention: the widespread, growing use of children in the production of pornographic magazines and movies, and the escalating number of juveniles engaging in prostitution.

When such practices began to come to light earlier this year, sparked by a series of articles in the Chicago Tribune and by CBS News, the Subcommittee To Investigate Juvenile Delinquency began looking into efforts at the Federal level to deal with the problem. As the subcommittee became more involved in its investigation, we learned of gaps in our Federal laws permitting persons using children in pornography and prostitution rings to go about their sordid business, often without fear that the Federal laws would intervene.

In response to the findings of the Subcommittee based on extensive hearings, quick action was taken to report S. 1585. The full Senate considered the measure in early October, followed soon by House action. We now come to this body with an agreement from the conference committee—an agreement very favorable to the position taken by the Senate upon adoption of the legislation last month.

As the coauthor of S. 1585, with the Senator from Iowa, Mr. CULVER, I am convinced that adoption of the conference report by the Senate today will put us well on the road to stamping out child pornography and juvenile prostitution in America.

The conference report contains a slightly modified version of the so-called Roth amendment that was overwhelmingly adopted during Senate consideration of S. 1585. The modification, incorporating the Supreme Court test for obscenity as laid down in *Miller* v. *California*, 413 U.S. 445 (1973), guarantees in my opinion, the constitutionality of the legislation.

During hearings on S. 1585, the subcommittee heard the opinions of numerous experts who testified that virtually all of the materials that are normally considered to be child pornography are obscene under the current standards. The standards would require that the material "taken as whole" would appeal to the prurient interest of "the average person, applying contemporary community standards" and "lacks serious literary, artistic, political, or scientific value." *Miller* v. *California*, 413 U.S. at 24. This standard results in a ban aimed at conduct as opposed to a constitutionally infirm ban aimed at speech. It is the heart of the constitutional issue surrounding the legislation, and has been dealt with by the conference committee to insure the constitutionality of the bill, thereby guaranteeing Federal prosecutors the tools with which to eliminate the sexual exploitation of children involved in pornography and prostitution.

I am convinced that the standards adopted by S. 1585 will reach the kind of abuses that the Senate intended to reach with its approval of the Roth amendment. I know of no case of pornography that was brought to the attention of the subcommittee, that would not be trapped by the legislation, as reported by the conference committee.

The conference report is an excellent piece of legislation. It is made possible by the leadership and cooperation of the Senator from Iowa, Mr. CULVER, and the Senator from Delaware, Mr. ROTH. We owe them a debt of gratitude that this necessary measure is before us today. I strongly urge my colleagues to approve the report, and to set us on the path toward the elimination of this vicious exploitation of our country's children.

Mr. ROTH. Mr. President, I rise with mixed feelings regarding the conference report on S. 1585. I am pleased that we are only steps away from enacting a law to put a stop to the outrageous practice which subjects our young children to sexual abuse for profit. Surely, the production, sale, and distribution of child pornography must be one of the greatest blights on a civilized society. This is the first time that Congress has directly addressed this form of child abuse.

But I am also disappointed that the conferees chose to weaken the Roth-Hatch amendment dealing with sale and distribution by inserting an obscenity

standard. I believed that matter had been settled when the Senate approved that amendment by a vote of 73 to 13. Moreover, on October 25, the House subsequently instructed its conferees to accept the Roth language by a vote of 358 to 54.

I sought the advice of the Parliamentarian on whether in view of those votes the conferees had not exceeded their authority. After careful deliberation, the Parliamentarian advised that it was his opinion that they had not.

I wish to thank and express my appreciation to the distinguished Senator from Iowa (Mr. CULVER) for his efforts as conference chairman. Although he was personally opposed to my amendment, he consistently voted against any modification in conference, consistent with the vote in the Senate. I also wish to express my gratitude to the distinguished Senator from South Carolina (Mr. THURMOND) for his continuous support in committee on the floor, and in the conference.

While this measure is not as strong as I wish it would be, I think it represents a major step in the right direction. Already it is beginning to have an impact. During its convention this week the Adult Film Association of America unanimously supported a resolution to its bylaws stating that it will not produce, distribute, or exhibit any explicit sex feature or film in which a minor appears. Since this association represents 95 percent of the adult theaters in this country and probably as much as 95 percent of those who produce adult films, I hope that this resolution signals the beginning of a serious crackdown on this especially odious form of child abuse.

While I believe enactment of this bill is an important first step, I intend to monitor its enforcement very closely, especially its provision on sale and distribution. Should it prove to be less than what is requisite to totally eradicate this pernicious practice I will introduce the legislation necessary to that end.

Mr. THURMOND. Mr. President, I would like to offer some brief remarks on the conference report now before the Senate.

First, I want to commend the Senator from Iowa (Mr. CULVER) and the Senator from Maryland (Mr. MATHIAS) for their diligent and hard work on this legislation. I should also point out that the Senator from Delaware (Mr. ROTH) has made a fine record on this measure in his efforts to strengthen the bill by adding a provision to provide for the prosecution of sellers and distributors of child pornography.

Mr. President, the conferees did modify the Roth amendment to S. 1585 by adding an obscenity standard. While I have serious reservations about the ability of the conference to make such a change in view of a 73-to-13 vote in the Senate, and an instruction in the House by a vote of 358 to 54 to adopt the Roth amendment, as well as questioning the necessity for providing for an obscenity standard in the bill, I still must support S. 1585 as agreed to by the House and Senate conferees.

Mr. President, this bill is urgently needed to give prosecutors the tools to deal with child pornographers and those engaging in child prostitution. In addition, prompt approval of this bill will indicate to Federal prosecutors the importance and priority that the Congress attached to this sordid activity. Organized crime is financing much of the production and distribution of these materials and a concerted effort will be needed to prosecute the individuals responsible. Legislation like S. 1585 can aid greatly in this effort.

I believe the conference report should be adopted by the Senate and sent to the House for immediate passage.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

TIME LIMITATION AGREEMENT ON MR. CURTIS' AMENDMENT

Mr. CURTIS. Mr. President, I renew my request that notwithstanding any other order, that at this time—my unanimous-consent request is that at this time—the Curtis amendment be called up with a time limitation of 10 minutes, 5 minutes on each side, and that following it the distinguished Senator from Indiana (Mr. BAYH) can call up the DeConcini amendment, and following that the distinguished Senator from Delaware (Mr. ROTH) may call up his amendment.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I will not object—I have now cleared the time limitation on the Curtis amendment with Mr. MORGAN, and there is no objection.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

UP AMENDMENT NO. 1055

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. CURTIS. 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:

Strike out section 101 of the Act.

Strike out sections 102 and 103 of the Act and insert in lieu thereof the following:

EMPLOYEES

SEC. 102. Section 230 is amended by adding at the end the following new subsection:

"(d) For calendar years 1979, 1981, 1983, and 1985 the contribution and benefit base shall be equal to the amount determined under subsection (b) but as augmented for each such year (and carried forward thereafter) by $600; and the amount of such base for any such year as so increased shall be deemed to be the amount of such base for such year for purposes of determining any increase, under the preceding provisions of this section, in such base for any succeeding year.".

EMPLOYMENT TAX INCREASE; INCREASE IN SELF-EMPLOYMENT TAX; REALLOCATION AMONG TRUST FUNDS

SEC. 103. (a) TAX ON EMPLOYEES.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3101(a) of the Internal Revenue Code of 1954 are amended to read as follows:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.385 percent;

"(4) with respect to wages received during the calendar years 1981 through 1984, the rate shall be 5.65 percent;

"(5) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.95 percent;

"(6) with respect to wages received during the calendar years 1990 through 1994, the rate shall be 6.60 percent;

"(7) with respect to wages received during the calendar years 1995 through 2000, the rate shall be 7.05 percent;

"(8) with respect to wages received during the calendar years 2001 through 2010, the rate shall be 7.45 percent; and

"(9) with respect to wages received after December 31, 2010, the rate shall be 7.95 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3101(b) of the Code are amended to read as follows:

"(2) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.00 percent;

"(3) with respect to wages received during the calendar years 1981 and 1982, the rate shall be 1.25 percent;

"(4) with respect to wages received during the calendar years 1983 and 1984, the rate shall be 1.35 percent;

"(5) with respect received during the calendar 1985, the rate shall be 1.45 percent;

"(6) with respect to wages received during the calendar years 1986 through 1989, the rate shall be 1.50 percent; and

"(7) with respect to wages received after December 31, 1990, the rate shall be 1.40 percent.".

(b) TAX ON EMPLOYERS.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Paragraphs (1) and (2) of section 3111(a) of the Code are amended to read as follows:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.385 percent;

"(4) with respect to wages paid during the calendar years 1981 through 1984 the rate shall be 5.65 percent;

"(5) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.95 percent;

"(6) with respect to wages paid during the calendar years 1990 through 1994, the rate shall be 6.60 percent;

"(7) with respect to wages paid during the calendar years 1995 through 2000, the rate shall be 7.05 percent;

"(8) with respect to wages paid during the calendar years 2001 through 2010, the rate shall be 7.45 percent; and

"(9) with respect to wages paid after December 31, 2010, the rate shall be 7.95 percent.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of section 3111(b) of the Code are amended to read as follows:

"(2) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.00 percent;

"(3) with respect to wages paid during the calendar years 1981 and 1982, the rate shall be 1.25 percent;

"(4) with respect to wages paid during the calendar years 1983 and 1984, the rate shall be 1.35 percent;

"(5) with respect to wages paid during the calendar year 1985, the rate shall be 1.45 percent;

"(6) with respect to wages received during the calendar years 1986 through 1989, the rate shall be 1.50 percent; and

"(7) with respect to wages paid after December 31, 1990, the rate shall be 1.40 percent.".

(c) TAX ON SELF-EMPLOYMENT INCOME.—(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 of the Code is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

"(1) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1978, the tax shall be equal to 7.00 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977 and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978 and before January 1, 1981, the tax shall be equal to 8.077 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1985, the tax shall be equal to 8.475 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1985, and before January 1, 1990, the tax shall be equal to 8.925 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1989, and before January 1, 1995, the tax shall be equal to 9.90 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1994, and before January 1, 2001, the tax shall be equal to 10.575 percent of the amount of the self-employment income for such taxable year;

"(8) in the case of any taxable year beginning after December 31, 2000, and before January 1, 2011, the tax shall be equal to 11.175 percent of the amount of the self-employment income for such taxable year; and

"(9) in the case of any taxable year beginning after December 31, 2010, the tax shall be equal to 11.925 percent of the amount of the self-employment income for such taxable year.".

(2) HOSPITAL INSURANCE.—Paragraphs (2) through (4) of subsection (b) of section 1401 of the Code are amended to read as follows:

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.00 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1983, the tax shall be equal to 1.25 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1982, and before January 1, 1985, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1986, the tax shall be equal to 1.45 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1985, and before January 1, 1990, the tax shall be equal to 1.50 percent of the amount of the self-employment income for such taxable year; and

"(7) in the case of any taxable year beginning after December 31, 1989, the tax shall be equal to 1.40 percent of the amount of the self-employment income for such taxable year.".

(d) ALLOCATION TO DISABILITY INSURANCE TRUST FUND.—

(1) ALLOCATION OF WAGES.—Section 201(b)(1) of the Social Security Act is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.550 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.500 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.650 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1985, and so reported, (J) 1.900 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, (K) 2.100 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1995, (L) 2.400 per centum of the amount of the wages (as so defined) paid after December 31, 1994, and before January 1, 2001, (M) 2.700 per centum of the amount of the wages (as so defined) paid after December 31, 2000, and before January 1, 2011, (N) 3.00 per centum of the amount of the wages (as so defined) paid after December 31, 2010, and so reported, which wages shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of wages established and maintained by such Secretary in accordance with such reports; and".

(2) ALLOCATION OF SELF-EMPLOYMENT INCOME.—Section 210(b)(2) is amended by striking out all that follows clause (F) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.040 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.235 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1985, (J) 1.425 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (K) 1.575 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1990, and before January 1, 1995, (L) 1.800 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1894, and before January 1, 2001, (M) 2.025 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2000, and before January 1, 2011, (N) 2.250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income shall be certified by the Secretary of Health, Education, and Welfare on the basis of the records of self-employment income established and maintained by the Secretary of Health, Education, and Welfare in accordance with such returns.".

The amendments made by this amendment to sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be modified as a result of any amendment to the bill agreed to prior to the adoption of this amendment.

Mr. CURTIS. Mr. President, if I may have order I can state what this amendment is. This amendment deals with financing of social security. Yesterday I offered an amendment to take care of the $6 billion deficit in the fund now, and there will be a larger one next year as well as some long range.

We were defeated on what I regard as a rather close vote. That amendment of yesterday would have increased the tax on employers and employees at one-half of 1 percent on each side.

It is true that when you raise revenue by raising the work base the entire burden falls upon the higher-paid, and with the present level of prices that is a blow to the middle class.

On the other hand, if we raise revenue by raising the rates only, it does affect the people of all brackets.

Mr. President, I have a compromise. I propose to raise half of it by raising the rate and half of it by raising the wage base. So, instead of one-half of 1-percent increase on all, I will make that one-quarter of 1 percent, and then raise the wage base on employees and employers alike $2,400, but I do that in four steps of $600 each.

This tax increase of one-quarter of 1 percent and the first step in raising the wage base do not go into effect until 1979. There is a tax increase in 1979 of one-quarter of 1 percent for employer and employee, and there is the first $600 of wage base increase. Then there will be, the second year thereafter, another $600, until we raise it by $2,400. Substantially half of the burden will fall on the upper brackets alone by raising the wage base, and half of it will be across the board on everyone.

I think that is a fair compromise. It does not involve the general fund; it does not involve having a rate base different for employers than for employees.

One more feature, Mr. President: 6 years from now there will have to be a one-tenth of 1 percent increase in order to make up for the transfer of funds at this time. But that is 6 years off, and it is only one-tenth of 1 percent.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CURTIS. I reserve the remainder of my time, and I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I move to table the amendment. My motion would not lie until the time expires; is that correct?

The PRESIDING OFFICER. The Senator's motion would not lie until all time on the amendment has expired or been yielded back.

Mr. CURTIS. I am willing to yield it back right now.

Mr. NELSON. Mr. President, the distinguished Senator from Nebraska and I have discussed the principles involved here in some detail in the last couple of days, and I would repeat that this proposal was printed in the CONGRESSIONAL RECORD twice, in short form, in the Wednesday and Thursday RECORDS; and this present amendment is referred to as Curtis plan No. 2.

Yesterday we debated Curtis plan No. 1. That was not adopted, and this is Curtis plan No. 2, as identified in the RECORD.

Let me say, as I did then, that Senator CURTIS, in both of his plans, has designed a proposal which does, in fact, guarantee the integrity of the fund all the way to the year 2050. His plan No. 2 has a balance in the fund of plus 0.40 percent of taxable payroll, so from the standpoint of fiscal integrity, there is not really any question about it being financially sound.

The Finance Committee, at the same time, reported a proposal to the Senate floor which also provides the financing for all of the provisions in the current law and in the pending legislation through the year 2050, just as does Senator CURTIS' amendment. The Senate Finance Committee bill leaves a balance in the fund of plus 0.06 of taxable payroll in the year 2050.

There is a basic difference, however. I cannot get into it in great detail because of time constraints and because we have covered it before. However, the levy of taxes under Curtis plan 2 on the worker earning the average wage is greater at each step than under the Finance Committee plan. In 1979, the Finance Committee would increase the tax over the present law by $10 for the worker earning the average wage, and Senator Curtis' plan would increase it by $39, and, down into the year 1987, the Finance Committee plan would increase the liability by $112 on the individual earning the average wage, while Senator CURTIS' plan would increase it by $177. The figures are roughly similar in terms of those earning the maximum amount taxed.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CURTIS. Mr. President, I thank my distinguished friend for his fair statement. He has very graciously stated the facts very forthrightly just as they are.

The adoption of my amendment will restore the fund. It will set at rest the uneasiness. It will get the additional money that we need. It will maintain the traditional pattern that everybody pays, half by employers and half by employees, with no gimmicks, no dodging of the issue, meeting it forthrightly for the benefit of all the people of the land.

I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time is yielded back.

Mr. NELSON. Mr. President, I move that the amendment be laid on the table.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska (Mr. CURTIS). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Georgia (Mr. NUNN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Kansas (Mr. PEARSON), the Senator from New Mexico (Mr. SCHMITT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

The yeas and nays resulted—yeas 41, nays 41, as follows:

[Rollcall Vote No. 623 Leg.]

YEAS—41

Anderson	Gravel	Metzenbaum
Bayh	Hart	Moynihan
Biden	Haskell	Nelson
Bumpers	Humphrey	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Kennedy	Randolph
Case	Leahy	Ribicoff
Church	Long	Riegle
Clark	Magnuson	Sarbanes
Cranston	Matsunaga	Sparkman
Culver	McGovern	Stafford
Durkin	McIntyre	Stevenson
Eagleton	Melcher	Williams
Ford	Metcalf	

NAYS—41

Allen	Garn	Morgan
Baker	Glenn	Packwood
Bartlett	Griffin	Percy
Bellmon	Hansen	Roth
Brooke	Hatfield	Schweiker
Byrd, Harry F., Jr.	Heinz	Stennis
Chafee	Helms	Stevens
Chiles	Hollings	Stone
Curtis	Inouye	Talmadge
Danforth	Javits	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Eastland	Mathias	Young
	McClure	Zorinsky

NOT VOTING—18

Abourezk	Hathaway	Nunn
Bentsen	Johnston	Pearson
Cannon	Hayakawa	Sasser
DeConcini	Huddleston	Schmitt
Goldwater	McClellan	Scott
Hatch	Muskie	Weicker

Mr. CURTIS. Regular order, Mr. President.

The VICE PRESIDENT. On this vote there are 41 yeas, 41 nays.

The VICE PRESIDENT votes "aye." The motion to lay on the table is agreed to.

Mr. NELSON. I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1056

(Purpose—To liberalize the conditions governing eligibility of blind persons to receive disability benefits.)

The VICE PRESIDENT. Under the previous order, the Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I send to the desk an unprinted amendment in behalf of the distinguished junior Senator from Arizona (Mr. DECONCINI), myself, Senator BROOKE, Senator DURKIN, Senator EASTLAND, Senator GOLDWATER, Senator HUMPHREY, Senator MCGOVERN, Senator RANDOLPH, Senator RIEGLE, Senator SPARKMAN, Senator THURMOND, Senator TOWER, and Senator WEICKER.

The PRESIDING OFFICER (Mr. SARBANES). The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH), for the Senator from Arizona (Mr. DECONCINI), himself, and others, proposes unprinted amendment numbered 1056.

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

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

The amendment is as follows:

At the appropriate place insert the following:

DISABILITY BENEFITS FOR BLIND PERSONS

SEC. 130. (a) Section 214 (a) of the Social Security Act is amended by adding "or" after the semicolon at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

"(4) in the case of an individual who has died and who was entitled to a benefit under section 223 for the month before the month in which he died, 6 quarters of coverage;".

(b)(1) Section 215(b)(1) of such Act is amended by striking out "shall be the quotient" and inserting in lieu thereof "shall (except as provided in paragraph (5)) be the quotient".

(2) Section 215(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual who is blind (within the meaning of 'blindness' as defined in section 216(i)(1)), such individual's average monthly wage shall be the quotient obtained by dividing (A) the total of his wages paid in, and self-employment income credited to, all the calendar quarters which are quarters of coverage (as defined in section 213) and which fall within the period after 1950 and prior to the year specified in clause (i) or clause (ii) of para-

graph (2)(C), by (B) the number of months in such quarters; except that any such individual who is fully insured (without regard to section 214(a)(4)) shall have his average monthly wage computed under this subsection without regard to this paragraph if such computation results in a larger primary insurance amount."

(3) The amendments made by this subsection shall apply with respect to monthly benefits and lump-sum death benefits payable under title II of the Social Security Act for months after September 1977.

(c)(1) Section 215(b)(1) of such Act (as amended by section 104(b) of this Act) is further amended by striking out "is equal to the quotient" and inserting in lieu thereof "is equal to (except as provided in paragraph (5)) the quotient".

(2) Section 215(b) of such Act (as amended by section 104(b) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of an individual who is blind (within the meaning of 'blindness' as defined in section 216(i)(1)), such individual's average indexed monthly earnings is equal to the quotient obtained by dividing (A) the total (after adjustment under paragraph (3)) of his wages paid in, and self-employment income credited to, all of the calendar quarters which are quarters of coverage (as defined in section 213) and which fall within the period after 1950 and prior to the year specified in subclause (I) or subclause (II) of paragraph (2)(B)(ii), by (B) the number of months in such quarters; except that any such individual who is fully insured (without regard to section 214(a)(4)) shall have his average indexed monthly earnings computed under this subsection without regard to this paragraph if such computation results in a larger primary insurance amount.".

(3) The amendments made by this subsection shall apply with respect to monthly benefits and lump-sum death benefits under title II of the Social Security Act payable for months after December, 1978.

(d) Section 216(i)(3) of such Act is amended to read as follows:

"(3) The requirements referred to in clauses (i) and (ii) of paragraph (2)(C) are satisfied by an individual with respect to any quarter only if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such quarter, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with such quarter, or (ii) if such quarter ends before he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with such quarter and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage; or

"(B) he is blind (within the meaning of 'blindness' as defined in paragraph (1) of this subsection) and has not less than 6 quarters of coverage in the period which ends with such quarter.

For the purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a prior period of disability unless such quarter was a quarter of coverage."

(e) The first sentence of section 222(b)(1) of such Act is amended by inserting "(other than such an individual whose disability is blindness as defined in section 216(i)(1))" after "an individual entitled to disability insurance benefits".

(f) Section 223(a)(1) of such Act is amended—

(1) by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof "or is blind (within the meaning of 'blindness' as defined in section 216(i)(1)),";

(2) by striking out "the month in which he attains age 65" and inserting in lieu thereof "in the case of any individual other than an individual whose disability is blindness (as defined in section 216(i)(1)), the month in which he attains age 65"; and

(3) by striking out the second sentence.

(g) Section 223(c)(1) of such Act is amended to read as follows:

"(1) An individual shall be insured for disability insurance benefits in any month if—

"(A) he would have been a fully insured individual (as defined in section 214) had he attained age 62 and filed application for benefits under section 202(a) on the first day of such month, and (i) he had not less than 20 quarters of coverage during the 40-quarter period which ends with the quarter in which such month occurred, or (ii) if such month ends before the quarter in which he attains (or would attain) age 31, not less than one-half (and not less than 6) of the quarters during the period ending with the quarter in which such month occurred and beginning after he attained the age of 21 were quarters of coverage, or (if the number of quarters in such period is less than 12) not less than 6 of the quarters in the 12-quarter period ending with such quarter were quarters of coverage, or

"(B) he is blind (within the meaning of 'blindness' as defined in section 216(i)(1)) and has not less than 6 quarters of coverage in the period which ends with the quarter in which such month occurs.

For purposes of clauses (i) and (ii) of subparagraph (A) of this paragraph, when the number of quarters in any period is an odd number, such number shall be reduced by one, and a quarter shall not be counted as part of any period if any part of such quarter was included in a period of disability unless such quarter was a quarter of coverage."

(h) Section 223(d)(1)(B) of such Act is amended to read as follows:

"(B) blindness (as defined in section 216(i)(1)),"

(i) The second sentence of section 223(d)(4) of such Act is amended by inserting "(other than an individual whose disability is blindness, as defined in section 216(i)(1))" immediately after "individual".

(j) In the case of an insured individual who is under a disability as defined in section 223(d)(1)(B) of the Social Security Act, who is entitled to monthly insurance benefits under section 202(a) or 223 of such Act for a month after September, 1977, and who applies for a recomputation of his disability insurance benefit or for a disability insurance benefit (if he is entitled under such section 202(a)) after September, 1977, the Secretary shall, notwithstanding the provisions of section 215(f)(1) of such Act, make a recomputation of such benefit if such recomputation results in a higher primary insurance amount.

(k) Except as otherwise provided in this section, the amendments made by this section shall apply with respect to monthly benefits and lump-sum death benefits payable under title II of the Social Security Act for months after September, 1977.

Mr. BAYH. Mr. President, the amendment which I bring up because of an important unexpected occurrence that caused our distinguished colleague from Arizona to be unavoidably absent, is an amendment which is identical to S. 753, which amends title II of the Social Security Act, and was introduced by Senator HUMPHREY, myself, and several other Senators in February of this year.

The purpose of the amendment is to standardize the work requirement and remove the "earning limitation" for blind persons to qualify for disability benefits.

While the principal sponsors of this legislation requested consideration of this bill in the context of the recent Finance Committee hearings, its provisions are not included in the bill as reported.

However, I believe that this amendment, which is designed to assist our blind citizens, is extremely important and I hope we shall have an opportunity to consider it here today.

Let me review, briefly, the arguments in favor of this amendment. While the primary purpose of the pending legislation is to strengthen the financing of the social security system, it is both proper and desirable to make needed improvements in the ability of that system to fulfill its purpose of providing minimum financial security to the aged and disabled. In fact, the House-passed bill contains a dramatic commitment to reduce and eventually repeal the earnings test for individuals over 65, because there is a growing conviction that everybody should have the right to better their economic status.

Mr. President, the Senator from Indiana does not need take a great deal of time to convince our colleagues of the particularly difficult situation in which blind citizens find themselves.

Social security disability insurance was designed to partially replace income loss due to a disability. Congress has previously recognized blindness as a distinct and unique condition. Certain economic consequences predictably follow the disability of blindness. It is compatible with the social security insurance concept to protect the blind from these adverse effects. If persons with a high earning capacity can return to work at all after becoming blind, they do so, almost without exception, at a much lower salary, and continue to suffer an adverse impact on their earning power. Moreover, working in a society adapted to vision entails extra costs for supportive services and special devices.

The blind, as a group, suffer largely artificial impediments when they seek to enter and compete in the labor market. The economic penalties exacted by discrimination are evident in a dramatic 70 percent rate of unemployment and underemployment. Any group with such a high rate merits being singled out for compensatory help, for particular assistance to meet their problems.

Much of today's discussion revolves around costs and benefits. I believe this amendment can be defended as cost-effective. HEW actuaries have estimated an annual increase in cost somewhere between $400 and $500 million a year. This is not an insignificant figure. The National Federation of the Blind, in its recent testimony before the House Ways and Means Committee, disputed these cost figures which appeared to be predicated on an additional 150,000 to 200,000 beneficiaries receiving an average of $2,500 annually. A figure of 50,000 newly

eligible persons has been suggested as more realistic.

No adequate consideration has been given by the administration to the offsetting savings that would result from the transfer of blind beneficiaries now served by SSI, food stamp, and other welfare programs; nor the savings that would result from removing the strong work disincentives.

Presently, an earnings level of about $200 is considered proof of the ability to engage in substantial gainful activity. A blind person willing to take an entry-level job for retraining purposes, or to accept sporadic employment, cannot afford to risk losing the basic security provided by disability benefits, as well as continued eligibility for medicare coverage. Therefore, the incentive to work is not present for most blind people.

I think it is rather obvious, to the blind as well as to many other categories of citizens throughout our country, the incentive to work is just not present.

Indeed, the strongest argument for this proposal before the Senate is the need to remove disincentives to gainful activity, and to encourage every person to seek work, to contribute, and to become independent.

The Department of Health, Education, and Welfare has also estimated that production lost through blindness currently costs the economy $1 billion a year. The blind who become productive members of society lessen that loss.

Further, to gain eligibility for disability insurance benefits, a blind person must have worked long enough under social security-covered employment to be fully insured. To do so, two requirements must be met. First a blind person must have accumulated a number of quarters of coverage which is equal to 1 out of every 4 quarters elapsing between 1950 and the time of blindness, or age 21 and the time of blindness, whichever is later. In other words, he must have worked in a covered occupation at least 25 percent of the time between either 1950 or his 21st birthday and the time of blindness, whichever is later. Second, he must have accumulated a minimum of 6 quarters of covered employment. Thus, under existing law there is substantial variation in the criteria a blind person must meet to be eligible for disability benefits. Currently, the number of quarters necessary to qualify for disability benefits ranges from 6 to 26. People who become blind on the same date and, indeed, in the same accident may, under present law, be subject to significantly different eligibility requirements.

For example, a person who attained his or her 21st birthday in 1960 and became blind in 1975 would be required to earn 15 quarters. A person who was 21 prior to 1950 and became blind in 1975 would be required to earn 24 quarters.

The purpose of this amendment is twofold. It would remove the earnings limitation for blind persons—thereby creating a work incentive; and, it would standardize the numbers of quarters necessary to qualify for disability benefits at six.

Mr. President, this amendment has been considered and passed by the Senate several times in the past. During the 94th Congress, Senator Hartke, with over 35 cosponsors, introduced it as S. 1183. Arguments both pro and con have been presented each time this proposal has come before the Senate.

However, it seems to me that the Senate position still remains the right position and, hopefully, the Senate will once again reaffirm its belief that the blind people of this country need the kind of assistance which would be provided in this amendment.

However, the debate deserves a fresh look. Arguments on cost finally boil down to a value judgment on relative priorities. It is no secret that priorities shift from Congress to Congress. Regrettably, progress for all groups is never achieved simultaneously. But social and economic inequities can be corrected step by step; the time has come for this particular step.

Mr. HUMPHREY. Will the Senator yield?

Mr. BAYH. I am glad to yield to the distinguished Senator from Minnesota who has been the leader in this field. I appreciate the opportunity to associate myself with him today as I have in the past.

Mr. HUMPHREY. I appreciate the Senator yielding.

I just wanted to thank the Senator for his initiative here today in bringing this worthy amendment to the attention of the Senate.

Blind people deserve this and the fund can handle this amendment.

I hope the Senate will once again, as the Senator has indicated we have passed this before, agree to its adoption.

It is not in any way going to wreak any serious damage upon the fiscal soundness or the strength of the social security fund. The Senator's amendment deserves our support.

Mr. President, I rise in support of the amendment being presented today by Senator BAYH and Senator DECONCINI. This amendment is essentially identical to legislation the Senate has passed on a number of previous occasions, and to a bill I introduced together with Senator BAYH.

The purpose of this amendment is clear and simple. A readily identifiable category of handicapped Americans are being sidelined from productive participation in our economy through an unintentional bias against work, which has been built into the disability insurance system. The amendment would correct this work disincentive.

I want to address very briefly the arguments raised in the past against this proposal. It has been said that costs are unknown. That is probably less true of this amendment than of some other incentive programs we have recently adopted with no certain knowledge of how many persons or businesses will respond.

Perhaps we would have more firm cost estimates if the issue ever had received the attention and study it manifestly deserves. I do not believe we can dismiss the situation of a group of Americans who suffer an unemployment and underemployment rate of 70 percent, knowing that this unemployment is related more directly to social attitudes and discrimination than to incapacity.

The cost of earnings lost through blindness has been estimated by the Department of Health, Education, and Welfare at $1 billion annually. The cost of this amendment has been estimated by the same Department at $500 million. However, to the best of my knowledge, there has been no effort to offset this estimate with the savings that would result as working blind persons transfer from public assistance to the disability program, begin paying social security and income taxes, and contribute their productivity to our economy.

I wonder if we are talking incorrectly of preferential treatment, when we should be speaking in support of reasonable exceptions to redress handicaps and disadvantages imposed by social and economic barriers that have barred the blind, far more than their disability, from earning a decent and secure livelihood?

The law as it stands encourages the blind individual to be dependent, to lose faith in himself or herself, to abandon the arduous efforts, apprenticeship, and risk required to train for, or resume, a job, or profession.

Too frequently, blind workers are hired last, let go first, and paid least. If they take a temporary job, when it disappears, they find themselves permanently deprived of disability benefits. If they take a low-paying job, in the hope of eventual advancement, they find themselves without disability benefits, and with added expenses for the extra services and equipment needed to function in a sighted society.

Indeed, whatever their earnings, and I think the record will not show a great many who achieve wealth through their labor, they continue to suffer a reduction in their earning capacity, through reduced opportunity and through the added expenses that working incurs. It is reasonable that some disability insurance payment be continued to compensate for a continuing salary loss.

Budget considerations are basic, but they cannot be the sole determinant of policy. They have to be tempered by a sense of priority, a recognition of social obligations, and a true accounting of the cost of undeveloped human potential.

I will not repeat arguments ably made by my colleagues who have presented this legislation, and who share my views. I will just say that I consider this particular amendment an investment and an incentive that would sustain and strengthen blind Americans in their determination to join the ranks of working America. That is my objective in supporting this legislation.

I think it is just, I think it is timely, I do not think it will bankrupt our Nation.

Mr. DURKIN. Will the Senator yield?

Mr. BAYH. I am glad to yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator.

I am very pleased to join with the Senator from Indiana, the Senator from

Arizona, the distinguished Senator from Minnesota, in cosponsoring this amendment.

As the Senator from Indiana says, it is identical to the bill we cosponsored and introduced earlier this year.

This amendment which I have cosponsored will help blind people in two ways. It would permit blind people who have worked a year and a half to qualify for disability benefits, and it allows blind people who are working now to continue receiving social security benefits regardless of their earnings.

We should encourage and support the efforts of the blind who want to be self-supporting and productive. Under the present system blind people risk losing the security of insurance benefits if they want to work. It just does not make sense to hold back people who want to overcome their handicap and make their own way in the world.

Many blind people in New Hampshire feel its good medicine to be employed. But they face more than the usual obstacles when job hunting, and often encounter discrimination, because of their handicap.

If the blind do overcome discrimination they still face higher costs for special services and transportation. Rarely will a blind person's income approach what it would be without his handicap.

Mr. President, too often social security regulations discourage ambitious people from being self-supporting. The whole point of this amendment, is to encourage the determination felt by many blind people to work and be productive members of society. If the blind were free to earn a living for themselves they would be paying income and social security taxes. Most of the costs incurred by increasing eligibility for social security disability insurance and raising the earnings limitation will be offset as recipients of those benefits will no longer need supplemental security and other public assistance programs.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution continues to be a nettlesome problem. The Senator from Washington, the chairman of the Appropriations Committee, is prepared to make a motion at this time. I think Senator BROOKE is in accord with that motion. I wonder whether we can have an understanding that it would not prejudice the right of the Senator from Delaware to the floor if we could proceed with the continuing resolution, while the House is still in session. I think it is urgent that we do that as quickly as possible, if we can have the Senator's indulgence.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, pending the arrival on the floor of Mr. YOUNG; that Mr. MAGNUSON then be recognized to call up the continuing resolution; and that when that is disposed of, Mr. ROTH again be recognized.

The PRESIDING OFFICER. It is the understanding of the Chair that the time for the quorum call will not be taken out of anyone's time.

Mr. ROBERT C. BYRD. Yes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

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

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

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

Mr. ROBERT C. BYRD. Mr. President, with the understanding of Mr. ROTH and while the Senate is awaiting the arrival of Mr. YOUNG, who is on his way, I ask unanimous consent that Mr. WALLOP may be recognized to call up an amendment and have not to exceed 2 minutes which I understand the committee will accept, and this be all without prejudice to the order that was entered.

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

The Senator from Wyoming is recognized.

UP AMENDMENT NO. 1058

(Purpose: To eliminate the reduction in disability benefits on account of receipt of workmen's compensation.

Mr. WALLOP. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself and Mr. CRANSTON, Mr. HUMPHREY, Mr. STEVENS, Mr. THURMOND, and Mr. YOUNG, proposes unprinted amendment numbered 1058.

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

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. 130. (a) Section 224 of the Social Security Act is repealed.

(b) The amendment made by this section shall be effective with respect to monthly benefits payable under title II of the Social Security Act for months beginning after the date of enactment of this Act.

Mr. WALLOP. Mr. President, I present this amendment to the social security financing bill on behalf of myself, Senator HUMPHREY, Senator THURMOND, Senator YOUNG, Senator CRANSTON, and Senator STEVENS. This amendment would repeal section 224 of the Social Security Act, the section that deals with the workmen's compensation provision.

Mr. President, the purpose of this amendment is quite simple. It would end the required monthly reduction in social security benefits when a disabled worker is also receiving workmen's compensation. This reduction of social security benefits due to workmen's compensation has been in effect since the 1965 social security amendments. Under present law, when a worker qualifies for both workmen's compensation and social security disability benefits, the monthly social security benefits must be reduced because the disabled worker is also receiving workmen's compensation. Where this offset provision is applicable, the social security benefits payable to the worker and his family are reduced by the amount that the total monthly benefits payable under the two programs exceed 80 percent of the worker's earnings prior to becoming disabled.

The Senator from Wyoming and the cosponsors of this amendment feel that the workmen's compensation offset provision is unfair and inconsistent. Disabled workers and their families under workmen's compensation are the only category of social security beneficiaries whose benefits are reduced because of the receipt of nonwork income. The great inequity is that the Social Security Act does not require a similar reduction in disability benefits from other Federal or private programs. A worker could become disabled and receive payments from civil service retirement annuity and Veterans' Administration disability payments, yet he would not have his social security benefits reduced as they are under the workmen's compensation offset provision.

The disabled workers who receive lump sum or monthly payments under private disability insurance policies or receive damages in private tort actions do not have their social security benefits reduced. Only those workers who through no choice of their own depend on workmen's compensation are singled out and have their social security payments reduced. The Senate surely recognizes the unfairness of a provision that requires a reduction in social security benefits because the worker is receiving compensation due to injury.

In my State and in every other State employers contribute to workmen's compensation funds. They do so to provide a fair protection to cover injured workmen. In most cases the covered workman has no right to civil damages. Awards on a contract agreement, if you will, and exchange the right to recover additional damages in court. The workmen's compensation fund exists solely for the benefit of injured and disabled working men and women and not to create actuarial soundness in the social security trust fund. Their employer's pay-

ments are no different from the payments of employers under private contract. Their injuries are no less painful. Their needs are no less real. Yet they are singled out amongst all Americans for special treatment. A treatment which is patently unfair; an injustice which Congress alone has the power to right.

This punitive and discriminatory treatment of one category of disabled workers is shamefully unfair and must not continue.

I wish to point out Mr. President that the number of workers affected by the offset provision represents only about 3 percent of the total number of people who receive benefits payable on the basis of disability. As of January 1977, 57,911 disabled workers and their dependents were affected by the month-to-month offset provision.

The questions of equity and fairness are central to the argument in support of this amendment, but there are administrative reasons why the offset provision should be repealed. The provision generally requires a disproportionate application of administrative resources. As the Senator from Wyoming indicated previously, only 3 percent of the workers receiving disability benefits are affected by the offset provision. However, much more time than would seem to be warranted by this small number of beneficiaries is spent in processing cases which involve the offset provision.

Elimination of the workmen's compensation offset would simplify the social security program. Processing these claims now requires reference to State workmen's compensation laws which, of course, vary widely. Often, social security field offices must contact employers, workmen's compensation agencies, insurance companies, attorneys, and claimants before workmen's compensation offset determinations can be made. A large amount of correspondence, protracted interview time, and program center review contribute to the high cost of handling each case. Also, each case must be handled manually, both initially and when workmen's compensation benefits are increased and when offset redeterminations are made every 3 years. Obtaining the necessary offset information often results in long delays in getting social security disability benefits to entitled individuals and their families.

If the workmen's compensation offset were eliminated, effective with October 1, 1977, 500 man-years would be eliminated over the next 5-year period ending with fiscal year 1982. In addition, $7.8 million in administrative savings would be realized over the same 5-year period.

I wish to close by saying that the most important consideration here is one of equity. There is no reason for the distinction between workmen's compensation and other disability payments programs. Section 224 arbitrarily singles out those who receive workmen's compensation for the reduction and offset treatment. I urge my colleagues to support this amendment and end this discriminatory treatment of disabled workers.

Mr. President, I shall briefly explain to the chairman what this does. It tries to correct an injustice in the American social security system whereby a workman who receives a lump sum payment under workman's compensation has that payment deducted from his social security disability payments. This leaves the disabled worker without the full benefit of his social security disability payments.

It is my understanding that the committee will accept this amendment and consider its financial impact in conference. Should it not meet the terms of the House bill and the amendment is not agreed upon in conference, the Finance Committee has agreed to hold hearings on the problems created by Section 224 of the Social Security Code and recommend legislation that would be implemented at a subsequent date.

Mr. LONG. Mr. President, my understanding is that the Senator from Wisconsin (Mr. NELSON) studied the amendment and he agreed that he would take the amendment to conference, and as far as I am concerned, I would be willing to join with the Senator in seeing that it is considered in conference.

Mr. WALLOP. I thank the Senator very much.

I checked with Senator CURTIS, and he, under the same set of circumstances, agreed to it.

Mr. STEVENS. Mr. President, I have cosponsored this amendment in order to correct the inequities found in the present social security disability payments system.

Currently a disabled person who receives workmen's compensation payments may not be entitled to his full social security benefits. At the same time, however, should he be receiving disability payments from another source such as civil service retirement annuity, Veterans' Administration disability benefits, or coverage under other private sources, he would be entitled to his full social security benefits. There is no sound reason for this discriminatory practice.

The present law places a financial penalty on disabled wage earners at a time when they are least able to afford it. We must remember that these disabled workers have contributed their share into the social security system.

To deny them their full compensation is contrary to the spirit of the disability program and impose a hardship on those Americans that have become disabled.

I urge my colleagues to act favorably on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1978

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 643 and ask unanimous consent to proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senate will now proceed to the consideration of House Joint Resolution 643 which will be considered as having been read twice, and which the clerk will state by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 643) making further continuing appropriations for the fiscal year 1978, and for other purposes.

The Senate proceeded to the consideration of the resolution.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I shall be very brief.

The PRESIDING OFFICER. May we have order in the Chamber?

Mr. MAGNUSON. Mr. President, I do not want to take up the time of the Senate very long.

This has been a protracted matter with long disputes, and the House of Representatives and the Senate could not agree. The latest vote, as we know, was on yesterday. The House of Representatives sent over a continuing resolution which would extend the moneys in the Labor-HEW appropriations bill so that people will get paid and the departments can function. Those are the Departments of HEW and Labor. Also in the continuing resolution is the District of Columbia because they have not reached an agreement on the matter of the convention center, and that is included in the bill. There are no other matters.

It is similar to the continuing resolution that we passed here about 3 weeks ago when we were still in conference, not on the money part of the bill but the well-known controversy of abortion.

So, this continuing resolution goes to November 30 of this year. That is approximately 3½ weeks.

The House of Representatives, as I understand, has already adjourned, or they are gone. They did not adjourn sine die, but they adjourned. The resolution need not go back to the House of Representatives if we pass it. It will go right down to the President.

But they have decided on a date certain for them to come back, and that will be November 29. That is why this resolution runs through November 30.

It is with some reluctance that many of us on the Appropriations Committee agree to this continuing resolution for many reasons which I will not repeat here today.

We had a long discussion this morning in the committee. Although the resolution had not been technically referred to the committee, we voted on the matter of whether we should accept this resolution or send it back to the House of Representatives with an amendment, namely, the abortion amendment. But the vote was very close in the committee. Some of the votes were cast, of course, in a practical way so that we do have a serious problem of the pay for many of these thousands of Americans who are people who are working in these Departments of Health, Education, and Welfare, and Labor, and the District of Columbia.

We have had conferences with the House of Representatives all day back and forth, and the fact that we are going to accept this without an amendment is based upon the fact that we have some assurances, and I think I am going to at this time rely upon them, from the House of Representatives that when we get back we will make every effort to work out something on this matter that has plagued this body and the Appropriations Committee for a long time.

The distinguished Senator from Massachusetts has done a lot of work today on this, talking with Members of the House of Representatives, as I have and other members of the Appropriations Committee, with phone calls, and all sorts of things, because they are actually in adjournment. There is no one over there.

So to get this done so that these departments can function, I say we reluctantly accepted this continuing resolution for 3½ weeks. It still contains the so-called Hyde amendment, to which we are opposed, and to which the Senate is opposed, as shown by a 62-to-27 vote with respect to the last language voted on on the floor of the Senate. The House, of course, has voted strongly for that amendment. But yesterday there was a margin of only some 21 votes.

They assured us they are going to do everything they possibly can to see if they cannot change that vote so we can arrive at some accommodation on this matter.

This matter, I hesitate to say again, does not belong on an appropriations bill at all. It is legislation, and I said today that I am going to get prepared, have prepared for me, some legislation. I can take the Hyde amendment on one end and somebody else's on the other end, or three in between—it might be three or four bills I do not care how many—and send them up here, have them referred to a legislative committee to try to get these things off the Appropriations Committee.

I do not know just what committee it will be referred to, but it is an expenditure of medicaid funds and, I suspect—I am a great friend of the Senator from Louisiana, who is always trying to get more jurisdiction—I am going to give it to the Senator from Louisiana. [Laughter.]

Mr. LONG. Mr. President, will the Senator be willing to go along with a refundable tax credit for that purpose?

Mr. MAGNUSON. To get rid of abortion I might make that exchange, I might agree with that. [Laughter.] But I do not want to delay the Senate.

I want to call on the distinguished Senator from Massachusetts. I want to say the members of my committee have been very, very patient. This has been a long, long struggle, and I am so hopeful that when we do get back we will finally get this done and then have some legislative committee establish a policy, a national policy, on this whole matter and not tack it on appropriations bills.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I believe arrangements have been made so that we can vote on this resolution now without amendments. I realize the Senate is at a disadvantage. The House has this prerogative, whether it is in the Constitution or not I do not know, but the right of sending over appropriations bills and continuing resolutions that this body does not have. They sent this one over at the last minute where we have the problem today, with the House going home, and if we do not take this then HEW and the District of Columbia would not be getting their money.

The Senator mentioned the Hyde amendment. As you know, there is a very strong feeling on this, there are strong convictions, so strong that they make it most difficult, if not impossible, to work out any kind of a compromise. But I hope in the 3 weeks before this comes up again some kind of a compromise can be worked out.

I commend the Senator from Massachusetts (Mr. BROOKE)——

Mr. MAGNUSON. The Senator knows, too, that this is a little hard to take. But it happens, as he and I know full well, that for a long time on the Appropriations Committee the House has sent us a continuing resolution and gone home, with a "take it or leave it." That is because continuing resolutions on appropriations originate in the House. One of these days I am going to turn that around, too, and send one to them and we can go home and let them take it or leave it.

Mr. YOUNG. I want to say I commend the Senator from Massachusetts (Mr. BROOKE) and I thank him for having worked out this compromise or agreed to approve the continuing resolution today. I know he has very strong feelings on this. He has worked very hard on it, and he should be commended for what he has done.

Mr. BROOKE. Mr. President, I want to thank my distinguished ranking minority member, Senator YOUNG, for his kind remarks, and certainly I thank my distinguished chairman.

Chairman MAGNUSON said that we reluctantly came to this conclusion, and he is absolutely right. It was with great reluctance that we arrived at this conclusion.

The Senate Appropriations Committee met this morning, and by a vote of 11 to 10 we decided we would include as a substitute the language that the Senate approved yesterday by a vote of 62 to 27 —language that we had sent to the House in the Labor-HEW appropriations bill.

As Senator MAGNUSON said, we have had many meetings today. I met with the Speaker of the House, Chairman GEORGE MAHON of the House Appropriations Committee, Chairman DAN FLOOD of the House Labor-HEW Subcommittee, Mr. BRADEMAS and Mr. ANDERSON, and many others who were present, in an attempt to find out what could be done procedurally about taking up the continuing resolution with the substitute Senate language in it.

I was convinced by what they said and by their own Parliamentarian that the earliest they could possibly have gotten to this matter would have been Friday of next week, because the House was about ready to adjourn when we talked today, and it would have taken unanimous consent, which they could not obtain; the Rules Committee could not be called together before Tuesday at the earliest, and then they would have needed 3 days additional, so that would have been Friday.

(Mr. MOYNIHAN assumed the Chair).

So a week would have been passed and little would have been achieved other than to make it crystal clear to the House of Representatives that the Senate feels very strongly about its position and that it will no longer tolerate their throwing a continuing resolution to us and going home.

Mr. President, as has been often said, this is a highly emotional issue. It is an important issue, as well. It is an issue which has been voted on time and time again by this body and time and time again by the House of Representatives. It is a matter that has kept this big appropriations bill of $60 billion-plus from being passed and sent to the President for signature.

We obviously are concerned in both Houses about payless paydays for Labor-HEW and other Federal employee, and we had hoped their pay would not be held hostage to our inability to resolve this issue.

It was with this in mind, and the fact of the procedural problems involved, that we finally agreed not to press what the Senate Appropriations Committee had done this morning, namely, to substitute our language and send it back to the House as such.

So, in essence, Mr. President, what we will be doing by the adoption of the motion made by our distinguished chairman is to send back the continuing resolution as it was sent to us here and, as he accurately stated, that includes the Hyde language.

Now, that is repugnant to me personally, it is repugnant to many Senators—I see some of them on the floor today, Senator BURDICK, who sat with us so long, and many, many others—I do not want to get into naming them all.

But, Mr. President, there were some assurances made. The Speaker of the House said at this meeting, and Congressman GEORGE MAHON, the distinguished Congressman from Texas, the chairman of the House Appropriations Committee, that they would use their good offices to see that there would be no further continuing resolutions. That is important because we are plagued with continuing resolution after continuing resolution. So we are hopeful that with that assurance we can get on with working out some compromise so no further continuing resolutions will be needed.

They also said they would do everything within their power to bring the parties together and try to reach a conclusion.

The House last night was much closer to the Senate than it has ever been. The 21-vote margin is not the true margin. It was much closer than that.

Several of the Members of the House changed their votes after it become obvious that there were not sufficient votes

in the House to carry the day. So we are much closer than we have ever been to resolving this matter between the House of Representatives and the Senate.

In the interim period, it is my intent, and I am sure the intent of others, to work on language and to have informal negotiations, so that when we come here on the 29th—and that is the date of their coming back; rather than the 28th, they are coming back on the 29th—hopefully we can get together with some language that can be agreed upon, passed by the Senate, and passed by the House of Representatives, resolve this matter, and send the bill on to the President for his signature, because there are so many important programs in this bill.

All the money for health, all the money for education, all the money for labor, and all the money for welfare is contained in this bill. So we have a great responsibility, Mr. President, and it is considerations such as these that are of concern. The realities are that we are again showing to the House of Representatives our desire to compromise and to work with them; we want to alleviate any hostility that was beginning to develop on the House side because they thought we had adjourned without deference to them last night and gone home, and on our side because they seemed to be saying, "Here, take the continuing resolution, because we are going home."

We cannot have that kind of problem between the two Houses. We have enough problems between the executive branch and the legislative branch without having such problems between one House of the legislative branch and the other House of the legislative branch.

Mr. President, taking all things into consideration, I would hope and urge that within the interim period women in this country will contact their Representatives in the House of Representatives, letting them know how they feel about this important issue—they have some 20 plus days to do it—because the Senate has done as it has been urged to do time after time after time. If it had not done that, the legislation would have gone the other way.

For that reason, Mr. President, I will not press the amendment which I said earlier today that I would press, and will support, though with great reluctance but nevertheless I will support it because I said I would, the motion being made by my distinguished chairman, who is reluctant himself to make the motion, but is doing so with the same thoughts and the same motives that I withdraw my amendment.

Mr. MAGNUSON. Mr. President, I want to say also, for the benefit of the Senate, that there is in this continuing resolution also—which added to the problem that we have had—$1.4 billion that the House of Representatives and the Senate agreed on for the disaster loan fund, an emergency provision which is, of course, for drought-devastated farmers and other disaster victims, so that that program can be funded.

Mr. NUNN. Mr. President, will the Senator yield on that point?

Mr. MAGNUSON. I yield.

Mr. NUNN. I wish to thank the Senator from Washington and the Senator from Massachusetts for moving this item. That $1.4 billion is a matter of great urgency to my State and I think many other States, where farmers have literally been devastated by the drought, and cannot pay their bills at the moment. I thank the Senator from Washington and the Senator from South Carolina, who has been very active in this regard.

DISASTER LOAN FUNDS

Mr. HOLLINGS. Mr. President, yesterday I introduced an amendment to the continuing resolution on behalf of myself and Senators TALMADGE, NUNN, THURMOND, CHILES, STONE, and MAGNUSON that would permit the Small Business Administration to draw on the $1,400,000,000 that both Houses have agreed to in the Supplemental Appropriations Act for the disaster loan fund. I will not call up this amendment since the House has already covered this requirement in the continuing resolution.

This is an extraordinary and an emergency provision to provide urgent assistance to the drought-devastated farmers and other disaster victims. As I indicated in my remarks yesterday, the SBA exhausted their disaster funds on October 31, 1977, and there are on hand some 11,000 applications amounting to $946,-800,000.

Mr. President, I want to echo the comments of the distinguished chairman of the Small Business Committee (Mr. SMITH of Iowa) in the House last night that this provision makes the full $1,-400,000,000, if necessary, available to the SBA. This is in conformance with the nature of this program and in no way is it to be implied that anything less than the full amount is being made available for these critically needed loans.

Mr. MAGNUSON. The Senator from Georgia has been very active in this matter also. And I, of course, have a similar situation in my State.

There is also another matter in the bill, involving the District of Columbia. On that, I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the distinguished chairman and the distinguished Senator from Georgia for their efforts in providing relief for the District of Columbia, in return for which we were happy to accommodate the interests of the Senator from Georgia.

Mr. NUNN. I thank the Senator from Vermont for his great understanding in that regard.

Mr. LEAHY. I know we shared a common view on that. I thank also, Mr. President, the acting chairman of the Appropriations Committee (Mr. STENNIS) and the ranking minority member (Mr. YOUNG), the Senator from Massachusetts (Mr. BROOKE), and others, who are to be commended for working out the agreement they did on HEW.

For those who are totally opposed to Federal funding for abortions, and those who feel there should be far more Federal funding for abortions, it is not really totally acceptable to either side, but it is a very realistic compromise, at least for the short term, with the understanding that the Senate and the House of Representatives will probably work out others.

I might point out to our distinguished chairman that it would seem strange to go through a whole day in the Senate without being able to vote on abortion at least once. Some of us thought perhaps we should change the Senate rules to provide that each day, after the recognition of the leadership, the Senate have at least one vote on abortion, and that we have a sort of running Dow Jones daily average on abortion, to see where we stand.

As chairman of the Senate Appropriations Subcommittee on the District of Columbia, I support this joint resolution as it provides the District of Columbia with the legal authority to incur obligations to meet the city payroll and to continue other basic city functions. The legal authority for the city to incur obligations expired on October 31, 1977. This joint resolution is the traditional continuing appropriations resolution with which we are all familiar. It is effective only until November 30, 1977.

The conference committee on the District of Columbia appropriations bill met on October 12 and again on October 17. Since then I have repeatedly expressed my willingness to meet again at any time starting at 6 a.m. in the morning and running as late as 12 p.m. in the evening. So far the House has not been able to meet again in conference.

The city's convention center proposal is the main difference between the House and Senate conferees. I have suggested that we set this item aside and ask the city to develop a proposal that would accommodate the concerns of all affected parties, particularly the views of the citizens and taxpayers of the city. I am still hopeful that we can reach an acceptable compromise on this item in this session of Congress.

I should point out that the Senator from Maryland (Mr. MATHIAS) has been extremely helpful in lending his expertise as the ranking member of the subcommittee. He has been especially helpful in the conference on the matter of the Convention Center, notwithstanding his strong opposition to this issue on the floor.

In the meantime, I again thank very much the acting chairman and the ranking minority member of the Senate Appropriations Committee for their courtesy, understanding, time, and patience, and the way that they have attempted to accommodate the least important of the Senate appropriations subcommittees.

I would also like to note my special thanks to Mike Hall of the Senate Appropriations Committee permanent staff for having done yeoman work in this regard, and to Doug Racine and Marty Franks of my office in the same respect.

I yield back to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I want to say one thing. This is a controversial, emotional issue, but I wish to compliment the distinguished Sena-

tor from North Carolina, whose views on this matter we know well, as he knows ours. He was very, very helpful in these negotiations, in trying to arrive at something here which we could support. I deeply appreciate, it as do all of us on the committee.

Mr. BROOKE. Mr. President, if the Senator will yield, the Senator from South Carolina (Mr. THURMOND) wanted to speak just a moment on the disaster relief section of the continuing resolution. So if we could have a quorum call——

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

Mr. BROOKE. I yield.

Mr. KENNEDY. I have a conference report that will take about a minute.

Mr. BROOKE. That would be fine. Mr. President, I ask uanimous consent that the continuing resolution be temporarily laid aside, and that the distinguished senior Senator from Massachusetts be recognized, and that when he has completed his presentation we may come back to this matter and the Senator from South Carolina be recognized for 2 minutes, and then that we have a voice vote.

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

SACCHARIN STUDY—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on S. 1750, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MOYNIHAN). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority 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 House proceedings of the RECORD of November 3, 1977.)

Mr. KENNEDY. Mr. President, I am pleased to report that the conference agreement on S. 1750 retains all the essential provisions of the Senate-passed bill. Specifically:

All food products will carry warnings which are to be prominently displayed on the label. The warning reads: "Use of this product may be hazardous to your health. This product contains saccharin, which has been determined to cause cancer in laboratory animals."

Second, the warning is to remain until the Secretary determines that saccharine is not a carcinogen.

Third, all retail stores will post warning signs. Additional consumer information will be provided to each store.

Fourth, the Secretary is authorized to require warnings on vending machines.

Mr. President, all of these provisions become effective 90 days after enactment. There is no allowance for administrative delay. I believe the conference report is entirely consistent with the Senate-passed bill and I urge its immediate adoption.

Mr. JAVITS. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. JAVITS. Mr. President, I am disappointed in the conference report, but I believe it is the best that can be done. I am not especially happy in the way the warning is worded, but it is the best compromise that could be arrived at with the other body, and I believe the Senate should accept the compromise.

Mr. SCHWEIKER. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. SCHWEIKER. I want to thank the members of the committee for their help and cooperation. It has been difficult to resolve this dilemma. I believe this bill is a good interim solution. I do support the conference report and hope the Senate will do so likewise.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER CONTINUING APPROPRIATIONS, 1978

The Senate continued with the consideration of House Joint Resolution 643.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I take this opportunity to express my appreciation to Senator MAGNUSON, Senator BROOKE, and all those who had a part in this continuing resolution to provide $1.4 billion for disaster relief for the farmers. I made an inspection of the farming situation in my State earlier this year. I brought back here and held up in the Senate Chamber ears of corn which usually would be about 10 inches long but which were just about 2½ to 3 inches long.

I talked to farmers who had grown 80 to 90 bushels per acre who were only able to grow about 2 bushels per acre. This is a very serious situation.

Our farmers run tremendous risks in farming because it is a question of whether the seed is going to turn out right, whether the season is right, whether the fertilizer is right, and whether the insects and disease can be controlled. Then, if they make a crop, there is the question as to what price they will get for it. The farmers, of all people, deserve some consideration.

I express my appreciation to those who had a part in trying to help these people who do so much for our country in providing the food and fiber, and who are overlooked in so many instances, who have no guaranteed income, who have no minimum wage, or anything of the kind, and many of whom would have lost their farms many times over if the price of land had not increased.

I express the appreciation of those people, the farmers of our country, to the members of this committee who had such a vital part in placing in this continuing resolution this $1.4 billion for disaster relief.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. What is the pending business, Mr. President.

The PRESIDING OFFICER. The question is on the joint resolution.

Mr. MAGNUSON. I ask for a vote.

The PRESIDING OFFICER. Without objection, the joint resolution (H.J. Res. 643) will be considered as having been read the third time and passed.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. Under the unanimous-consent order, the Chair now recognizes the Senator from Delaware for the purpose of offering an amendment.

UP AMENDMENT NO. 1057

Purpose: To provide tax credits to help offset college tuition costs.

Mr. ROTH. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH), for himself and Mr. JOHNSTON, Mr. BIDEN, Mr. HELMS, and Mr. RANDOLPH, proposes an unprinted amendment numbered 1057.

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

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

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. —. COLLEGE TUITION TAX RELIEF.

Section 1. In general (a) subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44D. EXPENSES OF HIGHER EDUCATION.

"(a) GENERAL RULE.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the educational expenses paid by him during the taxable year to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The credit under subsection (a) for educational expenses of any individual shall be an amount

equal to so much of such expenses paid in taxable years beginning after December 31, 1977, as does not exceed $250.

"(2) PRORATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS EXPENSES.—If educational expenses of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of educational expenses of such individual paid by the taxpayer during the taxable year is of the total amount of educational expenses of such individual paid by all taxpayers during the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL EXPENSES.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, and

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution of higher education; or

"(B) a vocational school.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means the institutions described in section 1202(a) or 491(b) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined in section 108(2) of the Vocational Education Act of 1963.

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amounts otherwise taken into account under subsection (a) as educational expenses of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income, and,

"(B) an educational assistance allowance under chapter 35 of title 38 of the United States Code or education and training allowance under chapter 33 of title 38 of the United States Code.

"(2) GRADUATE, NONCREDIT, AND RECREATIONAL, ETC., COURSES.—Amounts paid for educational expenses of any individual shall be taken into account under subsection (a) only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate degree by an institution of higher education or toward a certificate of required course work at a vocational school and are not attributable to any graduate program of such individual.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) to the taxpayer shall not exceed the amount of the tax imposed on the taxable year by this chapter, reduced by the sum of the credits allowable under this subpart (other than under this section, section 31, and section 39).

"(4) FULL-TIME STUDENT.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses with respect to any individual unless that individual, during any four calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student above the secondary level at an eligible educational institution.

"(5) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(e) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any educational expense which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the educational expenses of any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—

(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44D. Expenses of higher education.".

(2) Section 55(c)(2)(B) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof a comma and the word "and", and by adding at the end thereof the following new clause:

"(xi) section 44D (relating to credit for expenses for higher education).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to educational expenses paid after December 31, 1977, in taxable years beginning after December 31, 1977.

Mr. DANFORTH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROTH. I yield.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. What is the list of amendments on the present unanimous-consent agreement?

The PRESIDING OFFICER. Following the amendment of the Senator from Delaware, under the unanimous-consent order, the Chair will recognize the Senator from Idaho (Mr. CHURCH), and following that, the Senator from Alabama (Mr. ALLEN).

Mr. DANFORTH. Mr. President, I ask unanimous consent that after the disposition of the amendment to be offered by the distinguished Senator from Alabama (Mr. ALLEN), I be recognized to call up an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. Mr. President, reserving the right to object, can we get a time agreement on it?

Mr. DANFORTH. So far as I am concerned, we can.

Mr. LONG. Mr. President, I ask unanimous consent that we have 10 minutes, equally divided.

Mr. DANFORTH. That is fine with me.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. CRANSTON. Mr. President, I reserve the right to object, for one moment.

Mr. ALLEN. Mr. President, what is the request?

The PRESIDING OFFICER. The Senator from Missouri has made the unanimous-consent request that following recognition of the Senator from Alabama under the previous unanimous-consent order, he be recognized to offer an amendment, the time for debate on the amendment to be limited to 10 minutes, equally divided between the Senator from Missouri and the manager of the bill.

Is there objection to the unanimous-consent request?

Mr. CRANSTON. Mr. President, reserving the right to object, I have to object on behalf of Senator MORGAN, momentarily, until he can be consulted.

The PRESIDING OFFICER. Objection is heard.

The Senator from Delaware.

Mr. ROTH. Mr. President, my amendment provides tax credits for education expenses paid by an individual for himself, his spouse, and his dependents. To be eligible for the credit, an individual must be a full-time student at an institution of higher education or at a higher vocational school. The amount of the tax credit is to be $250.

To avoid any dispute with the Budget Committee, I am not proposing at this time the incremental increase to $500 as proposed in S. 311, my college tax relief bill.

I point out that a provision has been made for this college tax credit in the second budget resolution. Last year, the Senate twice overwhelmingly endorsed my college tax credit legislation by votes of 68 to 20 and 62 to 21. The measure was also approved by the Senate Finance Committee.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ROTH. I yield.

Mr. ROBERT C. BYRD. What was the request as to time on the Senator's amendment?

Mr. LONG. On this amendment, there has been no request. I suggest that we get a time to vote on this amendment.

How much time does the Senator require to explain his position. What limitation can we agree to?

Mr. ROTH. Twenty minutes, to be divided equally.

Mr. BELLMON. Mr. President, reserving the right ot object, I should like to have at least 10 minutes on this amendment.

Mr. LONG. I ask unanimous consent that there be 30 minutes, to be equally divided, and that 10 minutes of the time in opposition be allotted to the Senator from Oklahoma (Mr. BELLMON).

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

Mr. CRANSTON. Mr. President, I reserve the right to object, on behalf of Senator KENNEDY. He has some amend-

ments to the Roth amendment and would like 10 minutes on each of his amendments to the Roth amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. If that is accepted, I do not object.

Mr. LONG. I so modify the request.

Mr. ROTH. Mr. President, reserving the right to object, I did not hear the proposal.

Mr. CRANSTON. Senator KENNEDY would like 10 minutes for each of several amendments to the amendment of the Senator from Delaware.

Mr. ROTH. I do not know what his amendments are. I am not willing to enter into a unanimous-consent agreement.

Mr. LONG. Why do we not, for the time being, leave the limitation on the Roth amendment? Then we can obtain a limitation on amendments as they are called up and considered, and they will be subject to a motion to table.

Mr. CRANSTON. That will allow Senator KENNEDY an opportunity to bring up his amendments.

Mr. LONG. Yes. There will be no limitations on amendments to the amendment.

Mr. ROTH. Reserving the right to object, I am not clear on this.

Mr. LONG. The agreement is that we have a limitation on the Roth amendment, which is a half hour, equally divided. There is no limitation on amendments to the amendment. So, if a Senator is to offer an amendment, we can seek a limitation at that time on the amendment to the amendment; or one could move to table the amendment. That is the most severe limitation we can have.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. There will be 30 minutes on the Roth amendment, equally divided.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further?

Mr. ROTH. I yield.

Mr. ROBERT C. BYRD. I thank the Senator for his courtesy and indulgence.

Can we now obtain a time limitation on the amendment of Mr. Danforth? Mr. Morgan has no objection to that.

Mr. LONG. Ten minutes, equally divided.

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Missouri is that following the disposition of the amendment of the Senator from Alabama, he be permitted to call up an amendment, with the time to be 10 minutes on his amendment, equally divided.

Without objection, it is so ordered.

Mr. ROTH. Mr. President, is this counting against my time?

The PRESIDING OFFICER. It is counting against the Senator's time, unless there is unanimous consent otherwise.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time not be charged against Mr. Roth.

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

Mr. ROTH. Mr. President, I yield myself 3 minutes.

Mr. President, my amendment provides tax credits for education expenses made by an individual for himself, his spouse, and his dependents. To be eligible for the credit, an individual must be a full-time student at an institution of higher education or at a vocational school. The amount of the tax credit is to be $250. To avoid any dispute with the Budget Committee, I am not proposing at this time the incremental increases to $500 as proposed in S. 3111, my college tax relief bill.

Mr. President, twice last year the Senate overwhelmingly endorsed my college tax credit legislation by votes of 68 to 20 and 62 to 21.

Mr. President, I ask that the Senate be in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator is entitled to be heard. Will Senators kindly take their seats?

The Senator from Delaware.

Mr. ROTH. Mr. President, in consideration of this amendment, I want to remind my colleagues that the Senate provided room in this year's budget for this amendment by a vote of 59 to 25 and the House by a vote of 311 to 76. I am convinced that Congress can and must enact this legislation to provide tax relief to the millions of families struggling to send their children to college.

According to the statistics, there is a growing number of qualified students who are prevented from obtaining a higher education because of increasing costs. In the past few years the cost of a college education has skyrocketed. According to the College Entrance Examination Board, the annual average total cost of a public university has increased 40 percent in the past 5 years, from $1,782 to $2,790.

For a private university, the average annual total cost has increased 35 percent, from $2,793 to $4,568.

According to a New York Times survey the total annual cost at many colleges and universities is as high as $7,000.

Tuition costs will continue to increase. If a parent has a 1-year old baby today, it has been estimated that it will cost $47,000 to send that child to a public university, and $82,000 for a private university in the 1990's. For a student entering college next fall, the total cost will be $17,500 for a public university and $30,000 for a private college.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. ROTH. I yield myself, 1 more minute.

These increasing costs are a primary reason why college attendance has declined in the past few years. The U.S. Census Bureau reports that there has been a significant decrease in the percentage of 18- to 24-year-old dependents attending college full time. In addition, U.S. Census Bureau data shows that families are especially hard hit right now because many of them have more than one child of college age at the same time. These families face the difficult problem of educating two or more children over an 8- to 10-year period.

Middle-income families are especially hard hit by the increasing college education costs. There are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs which their taxes make possible.

As a result, college attendance of middle-income students has declined substantially in the past few years. Between 1969 and 1974, college attendance for children of middle-income families declined at a rate of 22 percent, while enrollment for lower- and higher-income students remained fairly stable.

Mr. President, we are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college, and I am convinced that action must be taken to ease the financial plight of middle-income American families.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, who is handling the time for the opposition?

The PRESIDING OFFICER. The Senator from Oklahoma has control of 10 minutes. The Senator from Louisiana has 5.

Mr. KENNEDY. Mr. President, if I may have the attention of the Senator from Louisiana, I am opposed to this amendment. Will the Senator yield me time?

Mr. LONG. How much time does the Senator want? I have 5 minutes. He may have my 5.

Mr. KENNEDY. I thank the Senator.

Mr. President, I rise in opposition to this amendment for several important reasons.

The amendment would allow a tax credit of $250 a year to parents for college tuition expenses.

The cost of the amendment would be: $175 million in fiscal year 1978; $1.0 billion in fiscal year 1977; and a total of $8.2 billion for fiscal year 1978–85.

This amendment is being offered on the wrong bill. It does not belong on the social security bill, and it is unlikely to be accepted by the House conferees.

The Senate Committee on Finance has announced plans to hold hearings on the credit in January, and further floor action by the Senate should be deferred until the issue can be seriously considered by the committee.

As a matter of fact, the amendment belongs on the forthcoming tax reform bill, which Congress will be considering next year, after the proposals of the administration are submitted.

Serious objections exist against the amendment with regard to education policy, tax policy, and budget policy.

First, a direct subsidy is preferable to a tax subsidy.

Federal grant and loan programs are better able to deal with the burden of college education costs, because such programs can target the relief to the specific needs of particular families.

The Federal Government is now spending $12.7 billion a year in direct outlays and $3.8 billion in tax expenditures for education, for a total of $16.5 billion in aid to higher education.

Since 1972, student aid programs in the Office of Education have increased from $1.0 billion to $3.4 billion; or a 340-percent increase in 6 years.

This year, the maximum grant under the basic education opportunity grant program will increase from $1,400 to $1,600, and the program will reach 241,000 newly eligible middle-income students.

Income eligibility requirements for guaranteed student loans have been increased by the 1976 Higher Education Act to allow loans for families with income up to $30,000 per year.

In ways like these, the direct grant programs are being targeted more toward middle-income families, and there is less need for the blunderbuss tax credit approach.

Second, the tax credit is inequitable.

The credit is not refundable. Therefore, families with incomes too low to pay taxes will get no benefit at all from the credit. If tuition costs go up because of the credit, low-income students will be left in worse condition than under present law—their costs of education will go up, but they will not receive the advantage of the credit.

The amendment discriminates against low-income students in another way, since other forms of student aid are subtracted from the credit. Ninety percent of the recipients of basic education opportunity grants with family income up to $15,000, would be disqualified from the credit.

The amendment discriminates against self-supporting students, who are ineligible for the credit. The credit is available only for parents claiming dependents. Yet, self-supporting students are the fastest-growing group in the student population; the average college student age is 23.

The benefits of the tax credit will be distributed unfairly among income groups: 60 percent of the benefits will go to families with incomes over $25,000 a year.

The bill will also change the balance between low cost public colleges and high cost private colleges:

Fifty percent of students in higher education attend schools where the costs of tuition are $1,000 a year or less. Fourty percent charge $1,000 or less. Only 8.4 percent of private colleges charge $1,000 or less. Yet, the amendment provides the some amount of tax subsidy, regardless of the tuition costs of the college attended.

Thousands of students in low-tuition community colleges will have their full tuition costs paid by the tax credit; for those in expensive private colleges (where costs may run $5,000 a year), the credit will be a drop in the bucket.

The heaviest burden is faced by families with more than one child in college at the same time. Yet the amendment ignores this fact. Federal direct grant programs provide increased aid in such cases.

Third, the tax credit is inflationary.

Colleges will use the credit as an excuse for new tuition increases. Colleges are less able to do so now, under existing programs, because the direct Federal subsidies are targeted to the smaller group of needy students, and tuition cannot be raised without driving away unsubsidized students. But 77 percent of all students would be subsidized by the tuition credit.

The amendment is an open invitation to colleges to adopt across-the-board tuition increases of $250.

Fourth, the tax credit is essentially an appropriation for education, and it has not been through the authorization or appropriations process.

The credit is little more than an additional appropriation of $1 billion a year or more for colleges. Parents and students will get no benefit from a $250 tax credit if tuition costs go up simultaneously by $250. Since the benefit of the credit is likely to be siphoned off by institutions, Congress should appropriate the funds directly, through the authorization and appropriations process, rather than indirectly through the tax code.

The credit has a serious impact on the budget. The credit is a "wedge" provision, with a relatively low revenue loss in the first year and larger revenue losses in future years.

Federal budget dollars appropriated by the Finance Committee are as real as the dollars appropriated by the Appropriations Committee. The Senate ought to be giving the same close scrutiny to tax expenditures as it gives to direct expenditures. Supporters of such indiscriminate tax spending are the real budget busters and deficit financiers.

Fifth, Mr. President, college costs are not rising as rapidly as income any more.

The amendment is an idea whose time has passed. It is a relic of the surge in tuition costs of the early 1970's.

Recent studies by the College Scholarship Service and the College Entrance Examination Board show that the problem is easing, with college cost inflation rates down and student aid up. For 1977–78, college inflation is estimated at 4.3 percent, compared to 7.5 percent last year, 8.8 percent the year before, and 17.3 percent in 1973–74.

Scholarship money is also increasing more rapidly than college costs—11 percent this year, and 12 percent last year. Since enrollments are down, there is more aid money to spread among fewer students.

In fact, in recent years, family income has been growing at a more rapid rate than education costs. According to the Congressional Budget Office, the median-family income grew by 73 percent from 1968–75, but college costs grew by only 57 percent. The need for the tax credit is declining as family income goes up.

Finally, Mr. President, the tax credit is complex. It puts the Internal Revenue Service in the education business, adds complexity to the tax law, and adds another layer of bureaucracy to education programs.

For those reasons. Mr. President, I oppose the amendment.

Mr. JAVITS. Will the Senator yield?

Mr. KENNEDY. I am afraid I have no further time.

Mr. JAVITS. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from Oklahoma has 10 minutes. That is time in opposition.

Mr. JAVITS. Has that been used?

The PRESIDING OFFICER. That has not been used. Mr. BELLMON does not appear to be on the floor.

Mr. JAVITS. I ask unanimous consent that I may proceed for 2 minutes.

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

Mr. JAVITS. Mr. President, I wish to express my agreement with Senator KENNEDY. I do not think he should stand alone in this matter. I have had many opportunities to vote for a tax deduction for college tuition and have felt that that is the wrong way to go. I am the ranking member of the committee which deals with education in this body. It would be distorting, running across the grain of all of our scholarships, our educational opportunity grants—almost everything we do runs precisely the other way.

Here we have just passed the Danforth amendment, which deals with the social security obligations of colleges and universities. We have just taken a step respecting tuition payments, which happens to be very hard on my State but is designed to help veterans with their college tuition. This is simply adding a layer of something totally new and different, with great costs, upon everything we do respecting education and in a very nondiscriminatory way. That is, it really is not tailored to do what even we wish to do.

I believe Senator KENNEDY is right, that hearings should be held—our hearings in our committee do not indicate that there is a justification for this at all. The hearings should be held by the Committee on Finance and we should make some definitive disposition of this matter on the new tax bill. But it certainly should not be done at this stage on this bill. I hope, therefore, that the amendment will be rejected.

Mr. BELLMON. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. BELLMON. Mr. President, I urge the Senate to reject the amendment offered by my good friend, the Senator from Delaware (Mr. ROTH). I want to state at the beginning of my remarks that my position on this amendment is not because of any immediate budgetary considerations, because, as the Senate well knows, there is room in the fiscal year 1978 budget for the Roth amendment. I do have concerns about the out years, but primarily, I rise to oppose the amendment on its merits.

The amendment would provide a college tuition tax credit. In light of the extremely high out-year costs and because the proposal has not received adequate consideration by the Senate, I feel the amendment should not be adopted at this time.

The cost of this proposal in fiscal 1978 is only $175 million, but that is only the camel's nose under the treasury tent. The authorization results in a cumulative 5-year cost of almost $4.5 billion in

revenue loss. The major beneficiaries of this indirect spending for higher education are not the Nation's students, who oppose it, but above-average-income parents and higher education institutions.

The proposed credit would provide a subsidy to a much broader range of students than any of the existing grant or loan programs. Approximately 77 percent of all undergraduate students would be subsidized under this amendment. Part-time students and students from low-income families are the main groups who would not receive benefits. This is more than three times as broad as the coverage of the basic opportunity grants (BEOG's) program, the largest student aid program administered by the U.S. Office of Education. Since three out of every four students would receive a subsidy under this amendment, compared to only one out of four under the BEOG's program, it is clear that the Roth amendment would give institutions a substantially greater opportunity to capture the subsidy through tuition increases.

The Senate should be reminded that $250 does not go very far any more in paying for college tuition and expenses. The average annual cost of a college education is roughly $4,000. Thus, if the credit were enacted, subsequent efforts would be made to enlarge the credit to $500, $750, $1,000, or even more. The ultimate annual costs will be extremely high.

There is considerable controversy over the merits of a college tuition tax credit. The administration opposes it: both the Treasury Department and the Department of Health, Education, and Welfare oppose it. A significant segment of the higher education community also opposes it. In these circumstances, the credit should be given close scrutiny before it is hastily adopted as Federal education policy. I understand that the chairman of the Finance Committee has made plans to hold hearings on the subject of higher education tax credits in January. Those hearings, announced this week, constitute the first such Senate hearings held on this amendment by that committee or any other.

I commend the Senator from Delaware for persisting in this matter until he does at least get the hearings underway.

The Senate ought to await the conclusion of those hearings to insure that what results is consistent with both deliberate education policy and deliberate tax policy. There are a variety of reasons why this particular proposal may constitute inefficient education policy.

I would like to point out some of the problems. Each of these and other flaws presently unforseen need to be brought to light before the Senate mortgages the future of higher education policy.

First. The proposal is inequitable both in terms of who pays and who benefits. The proposed amendment would provide tax relief for upper middle income families with college-age children and little incentive or subsidy for other families. The credit fails to target relief to those who need it. In the final year of operation, 67 percent of the revenue reduction that would result from the Roth credit would accrue to persons in families with adjusted gross incomes above $25,000, a population more suited to loans and loan guarantees. Since the Roth credit is calculated after deducting other student aid available to individual students, 90 percent of the BEOG's recipients, those with taxable family incomes up to $15,000, would not be eligible for the Roth credit—those, Mr. President, are the students or the families that need help the most—even further skewing the distribution toward upper income taxpayers.

Second. Existing legislation provides appropriate vehicles if there is to be a deliberative expansion of Federal student aid to middle-income families. Since 1972, there has been a dramatic increase in spending on student aid programs, from approximately $1.0 billion to $3.4 billion in the Office of Education programs alone, or a 340-percent increase in just 6 years.

Mr. President, that is almost 60 percent a year in new money the Congress has provided for this purpose.

The thrust of Federal higher education student aid policy continues to be a mix of spending programs targeted on the disadvantaged as well as loans and loan guarantees available to moderate- and middle-income students. The centerpiece of Federal student aid for higher education is the BEOG's program. By increasing the maximum grant in BEOG's from $1,400 to $1,600 this year, as assumed in the second budget resolution and as acted on by the Appropriations Committee, the program will reach 241,000 newly eligible middle-income students. The increase in the BEOG's maximum grant will allow moderate-income families a small subsidy to defray the costs of their childrens' college schooling, thereby, responding in part to the concern raised by Senator ROTH. In response to the same concern the income eligibility requirements for guaranteed student loans were increased in the higher education amendments of 1976 to allow eligibility for families with gross earnings up to $30,000 per annum.

Third. The basic premise of the proposal, that middle-income families are sending a declining percentage of their children onto higher education because they cannot afford it, may be flawed. Supporters of the amendment argue that the proposal is necessary in order to address the explosive growth in the cost of college. What they fail to take into consideration is that incomes have grown at a faster rate than college costs. CBO reports that from 1968 to 1975, the growth in the median family income was 73 percent, whereas the growth in college costs (both public and private) was only 57 percent.

Let me state that again, Mr. President. The growth in incomes in the period from 1968 to 1975 has been 73 percent, but the growth in college costs has been only 57 percent.

So it is easier now for a family to meet the costs of higher education than it was in 1968. Thus, there may actually be a declining need for tuition assistance as family income rises. We need to ascertain the roots of the problem before us before we prescribe ineffective remedies prematurely.

Fourth. The Roth credit would likely upset the delicate balance between highly subsidized low-cost public higher education institutions and high-cost private schools. Almost 40 percent of the enrollees in higher education institutions attend schools where tuition and fee charges amount to $500 or less. Almost 50 percent of public institutions as compared with 8.4 percent of private schools charge $1,000 or less for tuition and fees. The Roth credit will worsen the competitive balance between public and private institutions.

Although there is room for the fiscal year 1978 costs of this amendment in the budget resolution, we will be seriously mortgaging future budgets if we approve this amendment. This untargeted tax credit will cause future Federal deficits to be greater than they would need to be—or if we ever get a balanced budget, higher taxes than otherwise necessary.

For all these reasons I urge the Senate to reject the Roth amendment.

Mr. President, if we are ever to get a balanced budget, we have to begin to say "No" to these attractive propositions that are brought up and that have far greater effect than the sponsors frequently realize.

Again, I urge the Senate to reject the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 3 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise in support of the Roth amendment. I want to direct my remarks to the Senator from Massachusetts, not by way of specifically asking about his amendment, but with reference to our goal of helping young people get through college.

There is one thing that is missing from almost every formula that I think is very relevant and that the Roth amendment addresses.

The Senator from Oklahoma says that loans and grants are available.

That they have a dollar limitation, and nothing in that dollar limitation relates to the number of children in a household. Also, the Senator from Massachusetts does not have anything in his amendment relating to the number of dependents. It is a phaseout between $25,000 and $30,000.

I would say to the Senator from Massachusetts that in my case, I have eight children, I would be exempted entirely from this credit. Somebody else making $25,000 to $30,000 a year, with one child, would be entitled to the credit. It seems to me that I am not typical, in having eight children, but most families have two, four, or six children—families come in all sizes.

It is unfair to say to a household with a $30,000 income and one child, "We are going to give you this tax credit when your child goes to college," but the next door neighbor, who makes $34,000 and has six children, is not going to receive any assistance, is not going to get any loans, and is not going to get any grants.

So it appears to me that the formula for loans, grants, and the Senator's income phaseout for the Roth tax credit does not take into consideration the kind of hardships families have that are related to income. The Senator would change the credit between one child and two in college.

Therefore, since we cannot do that, it seems to me that the Roth approach is far more equitable over the long haul. It will permit those with a higher income and those with a number of children to still get the credit. It will not have so many built-in inequities.

In conclusion, the group that will be hurt the most by the Senator from Massachusetts amendment are those in the middle and upper middle income range when their children go to college.

I thank the Senator for yielding.

Mr. ROTH. I yield 3 minutes to the Senator from Louisiana.

Mr. LONG. Mr. President, I urged the Senator to offer his amendment on the floor, rather than in the Finance Committee, because the amendment is not germane to the bill. But in the Senate we are not under a rule of germaneness.

The Senator offered an amendment substantially similar to this on the Tax Reform Act last year. The chairman of the House conferees refused to go along, as did the majority of his conferees, and the House was not permitted to vote on it. If the House had been permitted to vote, they would have voted in favor of it.

Then the chairman of the committee there said if we put it on some other bill, he would let the House vote on it, but somebody else found a way to keep the House from voting on it.

This type of amendment, which has been favored in both the House and the Senate, has been denied the privilege of an up-and-down vote in the House.

If I were the Senator from Delaware, I would feel that I had no choice but to offer this amendment on any big revenue bill I could see was headed for the White House and which I thought the President wanted to sign. That is a course the Senator has been compelled to take.

It may very well be that if the amendment is agreed to, the House will not accept it and I may have to come back and ask for approval of a conference report that does not include the Roth amendment.

However, I believe that we owe the Senator our cooperation, in good faith, because more times than one, the Senate has agreed to his amendment; and more times than one, he has been denied the opportunity to have the House express its honest judgment on the issue, because of the technicalities and the parliamentary maneuvering that is possible within the rules of both Houses.

I for one cannot complain that the Senator offers his amendment on this or any other big bill that he thinks is headed for the White House. I expect to vote for the amendment. The Senator has made a good case.

Furthermore, the fact that his amendment is not a refundable tax credit is an entirely different matter. The Appropriations Committee and the Budget Committee and others have insisted and have been determined that we should not have any more refundable tax credits—at least, not for the time being. They have enjoyed recommending loans and grants and appropriating money for low-income students. If they cannot find a way to handle it, we will try a refundable tax credit, perhaps, in the future. They have done pretty well by the poor with the loan programs and grants.

As one who has seen how the Senator has been frustrated by the technicalities and the parliamentary maneuvering of those who represent a minority in both Houses, I think the Senator has every right to offer his amendment on any big revenue bill he sees headed for the White House. I cannot complain about his offering it on this bill.

Mr. ROTH. I thank the Senator from Louisiana for his words of support.

Mr. DANFORTH addressed the Chair.

Mr. MOYNIHAN. The Senator from Delaware is the only Senator who has time remaining. He has 4 minutes.

Mr. DANFORTH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. ROTH. Without detraction from my time.

Mr. DANFORTH. Mr. President, I ask unanimous consent, in connection with unprinted amendment 1050, which was voted on this morning, that the names of the following Senators be added as cosponsors, in addition to myself: Senators RIBICOFF, ALLEN, ANDERSON, BAKER, EAGLETON, FORD, LAXALT, HATFIELD, MATSUNAGA, PACKWOOD, DOLE, LUGAR, SCHMITT, JAVITS, and THURMOND.

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

Mr. LONG. Mr. President, I ask unanimous consent that it be in order for Senators to offer amendments to the amendment. I believe that under the unanimous-consent agreement, it would require unanimous consent for Senators to offer amendments to the amendment. I ask unanimous consent that it be in order for Senators to offer amendments to the amendment.

The PRESIDING OFFICER. Is the Senator asking for time on those amendments?

Mr. LONG. I believe the time on the amendment has expired.

The PRESIDING OFFICER. About 2 minutes remain.

Mr. LONG. I ask unanimous consent that when the time has expired on the amendment, it be in order for Senators to offer amendments to the amendment.

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

Mr. ROTH. Mr. President, a parliamentary inquiry. I have how much time remaining?

The PRESIDING OFFICER. The Senator now has 2 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, would they not be entitled to offer amendments?

Mr. ROTH. I have no objection to any Senator offering an amendment, but I would like to keep a few minutes for discussion at the end, if that is permissible.

Mr. KENNEDY. Mr. President, if the Senator will yield, when the time has expired, I intend to offer an amendment. Since I initially indicated that I would be glad to have a 10-minute limitation, I ask that it be evenly divided; and if it is not sufficient, I will be glad to ask for additional time.

Mr. ROTH. Mr. President, I yield back the remainder of my time.

UP AMENDMENT NO. 1059

(Purpose: To adjust the credit for educational expenses according to the number of the taxpayer's children in college.)

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1059 to amendment 1057.

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

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

The amendment is as follows.

Strike out paragraph (1) of section 44D(b) of the Internal Revenue Code of 1954 (as such section would be added by the amendment) and insert in lieu thereof the following:

"(1) Amount per individual.—The credit under subsection (a) for the taxable year shall not exceed—

"(A) $150, if such expenses were paid for only one individual, and

"(B) $250, if such expenses were paid by the taxpayer during the taxable year for more than one individual.

Mr. LAXALT. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. LAXALT. Mr. President, I ask unanimous onsent that Bob Heffler, of the staff of Senator HEINZ, be granted the privilege of the floor during the course of the debate.

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

The PRESIDING OFFICER. Do Senators understand that in order for there to be debate on the amendment, unanimous consent must be obtained?

Mr. LONG. Will the Chair repeat that?

The PRESIDING OFFICER. In order for there to be debate on the amendment, unanimous consent must be obtained.

Mr. LONG. I ask unanimous consent that the amendment be debatable.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, I would be glad to have a 15-minute limitation—7½ minutes for each side, if that is agreeable.

Mr. LONG. Mr. President, I ask unanimous consent that there be a 20-minute limitation, evenly divided between the Senator from Massachusetts and the Senator from Delaware.

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

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President. in the material that was circulated earlier is a letter from the distinguished Secretary of Health, Educa-

tion, and Welfare, Mr. Califano. I will read at this time from the final paragraph:

You ask whether the proposed program—

Meaning the Roth amendment—

would be consistent with policies underlying the present direct Federal expenditures for education.

It would be a radical departure. Two factors presently determine the amount of aid a student receives from the Office of Education: the family's ability to pay and the cost of the chosen college.

That is the sound underlying concept of the various Federal education programs, which provide several billion dollars a year through the appropriations process. We are violating that sound concept by adopting this unsound tax credit approach.

Mr. President, earlier we heard my friend from New Mexico talk about the dilemma of those in upper-income groups with large families. But we do not consider the question of the cost of education in isolation. There is a $750 tax deduction for each member of the family. We know about the $35 credit per person. There are other provisions in the Internal Revenue Code providing greater benefits for larger families.

So we cannot consider this particular amendment in isolation.

Mr. President, the amendment that I offer provides a very simple modification of the Roth amendment. It gives a credit for the first child of $125; for the second child or more, it is $250. The amendment retains the essential part of the Roth amendment, but it draws a distinction between those who have only one child in college and those who have two or more children in college. The total cost of the Roth amendment is $8.2 billion over the period 1978–85. My amendment will reduce that cost by about 20 percent, or about $200 million a year.

So, Mr. President, I hope that the amendment will be accepted. I reserve the remainder of my time.

Mr. President, I ask unanimous consent that the full text of Secretary Califano's letter may be printed in the RECORD.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., March 31, 1977.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: I am writing in response to your request for an analysis of proposals for the use of tuition tax credits to provide aid to families with college age students.

There is no question but that college costs are rising and that many families must make hard choices to finance a college education. Reduction in the family's standard of living or increased borrowing is often necessary to meet educational expenses. However, there are many combinations of grant and loan programs which would deal with that problem better and more fairly than a program of tuition tax credits, by distributing assistance according to the severity of the particular family's problem. For example, a highly paid professional sending his child to a low-tuition community college would get as large a benefit under some proposals as a blue collar worker sending his child to an expensive private college with no other aid. A family with income so low that it pays no tax would receive no aid at all. The "solution" proposed by such legislation badly matches the problem.

This, of course, implies an answer to your question regarding whether such a program would target Federal funds to those who need assistance. Such grants would have little relationship to need because almost all students, even those attending low-tuition public insitutions, incur sufficient tuition charges and other expenses to be eligible for the maximum credit. A reduction in the allowable credit would occur only where the student received grant or scholarship assistance, and, since today most grants and scholarships are awarded on the basis of need, such a reduction would almost always result from receipt of a need-based grant or scholarship.

A direct, targeted grant program in which both family ability to pay and costs of attendance determine the amount of the student's grant is a desirable way of equalizing educational opportunities, and is highly complementary to loan programs. However, for many of the upper-middle income families which would likely benefit from a grant program such as the tax credit proposal, I suspect a loan program would be preferable. What they need most is to spread college costs over an extended number of years, as is currently done under the Guaranteed Student Loan program. I think most of these families, when faced with large college costs in a particular year, would prefer a $2,500 long term 7 percent loan to a $250 to $500 grant. Where the issue is not ability to pay, but convenience, I believe the loan alternative becomes the more desirable.

The distribution of benefits under a grant program patterned after some proposals would appear to be inequitable among income groups. Benefits would be largely the same, despite differences not only in college costs, but also in income. We estimate that at least 60 percent of tax credit benefits would probably go to families with income of $18,000 or more—which are considerably better off than the national average. Further, only 30 percent of the benefits would go to families sending children to private colleges, although they have almost 60 percent of the financial need of all families likely to benefit from the credit.

You ask whether the proposed program would be consistent with policies underlying present direct Federal expenditures for education. It would be a radical departure. Two factors presently determine the amount of aid a student receives from Office of Education programs: the family's ability to pay, and the cost of the chosen college. When ability to pay is subtracted from cost, we have need, and in this sense all the Office of Education programs are need based. Perhaps, as some argue, different ways of determining need should be considered, or assignment of responsibility for meeting need among different programs could be improved. I cannot, however, imagine endorsing a student grant program which would completely discard need as a relevant factor in the manner of some tuition credit proposals.

Sincerely,

JOSEPH A. CALIFANO, Jr.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I would like to ask two questions to clarify his amendment.

The amendment at the desk says $150, and I believe the Senator from Massachusetts said $125.

Mr. KENNEDY. It is $150 in the amendment at the desk, $150 for the first child and $250 for the second child.

Mr. ROTH. Second or each additional child?

Mr. KENNEDY. For more than one child.

Mr. ROTH. They get a total of $250?

Mr. KENNEDY. The Senator is correct.

Mr. ROTH. Mr. President, I think that the proposal of the Senator from Massachusetts is inadequate. Basically, he is merely reducing the credit for the first child. I might point out that this will barely cover the additional cost for college each year.

Mr. President, I had a constituent come into my office in Wilmington about 2 or 3 weeks ago. She is a schoolteacher. She told me that she also worked at night as a teacher and that her husband was a teacher as well. And she was complaining about how low my college tax credit was, that it was really not offering the basic help that middle America needs.

She may have a point, when one stops and considers what college is costing today. I pointed out earlier that the average public university is costing approximately $3,000 and the average private university is costing around $4,500.

According to the New York Times, the total annual cost is going to rise very quickly in the future. So what the distinguished Senator from Massachusetts is offering is a mere pittance.

I point out that my $250 college tax credit is already weighted in favor of the low income, as I think it should be. My amendment also provides that there will be $250 for each additional child.

Under the proposal of the Senator from Massachusetts you could have five children and you still would get only $250. That is practically no help to the average family.

About 2 years ago, Mr. President, the Commissioner of Higher Education in HEW, who at that time made $37,500, resigned. And he resigned for one reason, and that was because he could not afford to send his children to college.

It is a sad state of affairs when the very individual who heads up higher education for the entire Nation says he has to resign from public office, because he cannot afford to send his children to school.

But what about the person in the private sector, the family that makes $20,000 or $25,000? That used to sound like a lot of money. But today it is not. They have to save at least $3,000 after taxes to send one of their children to college. And are we going to go home and tell them we cannot help them fulfill the American dream of sending their children to college? Is that going to be our message, when we are on the verge of imposing substantial tax increases upon the average American family? The energy tax bill is going to make a substantial difference to the average American family. The social security taxes are going to be hitting the average American family heavily. These new taxes will make it even more difficult for the average family to send their boy or their girl to school.

I say that it is time we recognize this need and we recognize it by giving some

aid that is substantial. For that reason I urge, Mr. President, the rejection of the amendment of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the facts of the matter are not as described by the Senator from Delaware.

If you take the top percentile in college aptitude tests, in spite of the inadequacies those tests have, you find that a surprisingly large number come from low-income groups—far larger than their proportion in the population.

We are trying to see that young people in this country with talent are not discriminated against, because of financial ability. There is nothing in the Roth amendment that is going to remedy that situation. Let us make no mistake about that. No one is denying the financial burden that middle-income families are under in terms of the cost of education. But the Roth amendment is not the answer. If you put $8.4 billion between now and 1985 in the guaranteed student loan program, you could educate almost every child in this country. We ought to spend the money where the need is. We have to have some sense of priorities. We know that our Federal education programs are starved for funds. It is wrong for us to squander a billion dollars a year this way.

The amendment of the Senator from Delaware offers no help to all of the young people who are working their way through college, or who take a year off in order to make enough money to go to college. It gives no help to them. It does not help any low-income families who have children in college, because it is not refundable.

Mr. President, what I am trying to do in this amendment is, at least, if the Senate is going on record to accept tax expenditures like this, to draw at least some distinction between those families that have more than one child who is going to college and those that have only one child in college.

Finally, Mr. President, I cite an example that Secretary Califano uses. He notes in his letter that a highly paid professional sending his child or her child to a low tuition community college would get as large a benefit under Senator ROTH's amendment as a blue-collar worker sending his child to an expensive college with no aid. What sense does that make? I do not think it makes any sense at all.

So I would hope, in terms of trying to meet one of the inequities of the Roth amendment—and my amendment does not meet all of them—that my proposal would be approved. At least, the tax credit should distinguish between families that have one child in college and those that have more than one child in college. I hope that this amendment will be accepted.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I would remind the Senate that my proposal has been overwhelmingly adopted by the Senate on three different occasions. I think it is tailored to help those in the greatest need. We have a number of programs, both grants and loans, for the disadvantaged and the poor, which I have supported and shall continue to support in the future. But I think my amendment addresses a pressing need the plight of the millions of middle-income families who are considered too rich to qualify for Government aid programs. If the Senator from Massachusetts is ready to yield back the reminder of his time, I will yield back mine.

Mr. KENNEDY. Mr. President, I have one other amendment, on an income cutoff. I would be glad to debate that with the Senator, and then we could have back-to-back votes for the convenience of the Members of the Senate, if the leader wishes to proceed in this way.

Could I have the attention of the leader, the Senator from West Virginia? We have used up our time, Mr. Leader, on this amendment. I have one other amendment. I would be glad to debate it, and then have two back-to-back votes for the convenience of the membership. If that is agreeable, we could have 15 minutes on the next amendment, debate it, and then have a vote on both of the amendments back to back.

Mr. ROTH. I would prefer that we take the amendments up one at a time and vote on them accordingly.

Mr. ROBERT C. BYRD. Mr. President, will the Senator object to the proposal of the Senator from Massachusetts which he has just made?

Mr. ROTH. Yes, I would object.

Mr. KENNEDY. I am prepared to yield back the time. I would like to get a yea and nay vote.

Mr. ROTH. I make a motion to table the proposed amendment.

Mr. KENNEDY. On the motion to table.

The PRESIDING OFFICER. On the motion to table is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Delaware to lay on the table the amendment of the Senator from Massachusetts.

The clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. STONE assumed the Chair.)

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from North Carolina (Mr. MORGAN).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 49, nays 26, as follows:

[Rollcall Vote No. 624 Leg.]

YEAS—49

Anderson	Garn	Melcher
Baker	Glenn	Nelson
Bayh	Gravel	Packwood
Bellmon	Griffin	Proxmire
Burdick	Hansen	Randolph
Byrd, Harry F., Jr.	Haskell	Riegle
Byrd, Robert C.	Hathaway	Roth
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Church	Laxalt	Stafford
Curtis	Leahy	Stennis
Danforth	Long	Talmadge
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Durkin	Mathias	Wallop
Eagleton	Matsunaga	Zorinsky
	McClure	

NAYS—26

Abourezk	Ford	Moynihan
Allen	Hart	Nunn
Brooke	Hollings	Pell
Bumpers	Javits	Sarbanes
Chiles	Kennedy	Stevenson
Clark	McGovern	Stone
Cranston	McIntyre	Williams
Culver	Metcalf	Young
Eastland	Metzenbaum	

NOT VOTING—25

Bartlett	Heinz	Percy
Bentsen	Helms	Ribicoff
Biden	Huddleston	Sasser
Cannon	Humphrey	Scott
DeConcini	Johnston	Sparkman
Goldwater	McClellan	Stevens
Hatch	Morgan	Weicker
Hatfield	Muskie	
Hayakawa	Pearson	

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

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

Mr. MELCHER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1060

(Purpose: To provide an adjusted gross income limitation on the college tuition credit.)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. President, I will be glad to enter into a 15-minute time limitation if it is agreeable to the primary sponsor.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1060 to unprinted amendment No. 1057.)

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

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

The amendment is as follows:

At the end of subsection (b) of new section 44D of the Internal Revenue Code of 1954, as such section is intended to be added by the amendment, insert the following:

"(3) Phase out between $25,000 and $30,000.—

"(A) In general.—If the adjusted gross income of the taxpayer for the taxable year with respect to which the credit is claimed under subsection (a) exceeds $25,000, the amount of the credit allowed under this section (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowed as the adjusted gross income of the taxpayer for the taxable year in excess of $25,000 bears to $5,000.

"(B) Married individuals filing separate returns.—In the case of a married individual filing a separate return, subparagraph (A) shall be applied by substituting '$12,500' for '$25,000' and by substituting '$2,500' for '$5,000'."

Mr. LONG. Mr. President, I ask unanimous consent that there be 15 minutes debate on the amendment, to be equally divided between the sponsor of the amendment and the opposition.

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

Mr. JAVITS. Mr. President, if the Senator will yield, I ask unanimous consent that after the Danforth amendment is considered, which I understand is third on the list, my amendment may be considered, numbered 1550.

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

Mr. BUMPERS. Will the Senator yield for a unanimous-consent request?

Mr. KENNEDY. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold, of my staff, be granted the privileges of the floor during the consideration of the pending legislation and any votes thereon.

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

Mr. KENNEDY. Mr. President, may we have order in the Chamber?

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

Mr. KENNEDY. Mr. President, I would like to direct a question to the Senator from Delaware, if I may.

Does he intend, as in his Dear Colleague letter, that there be a $250 credit for each dependent, or does he intend what the text of the amendment provides, which is a flat $250 credit per taxpayer, There is an inconsistency between the amendment itself and the explanation of the Senator.

Mr. ROTH. The tax credit of $250 per individual.

Mr. KENNEDY. If he had two children, it is $500, is that correct?

Mr. ROTH. That is correct.

Mr. KENNEDY. But the text of the amendment itself and the revenue estimated of $8.4 billion through 1985 are based upon $250 per family. If it is $250 per student, the cost goes up to between $13 billion and $14 billion by 1985.

Mr. ROTH. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. ROTH. That is not correct. The revenue impact——

Mr. KENNEDY. Could we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senate is not in order. The Senate will be in order.

Mr. ROTH. That is not correct. The text of the amendment provides a tax credit for the taxpayer, his spouse, or any of his dependents. And according to the Joint Committee on Taxation, the fiscal 1978 revenue impact will be $175 million, and then it would go up to approximately $1.2 billion in the succeeding 4 years.

Mr. KENNEDY. The Budget Committee estimate which was provided me was $8.4 billion for a credit of $250 per family, $8.4 billion.

Mr. ROTH. I have never seen that figure. It is directly contrary to what we have been supplied. As I said, the joint committee has given the figure of $1.2 billion for my proposal.

Mr. KENNEDY. That is the amount for a single year, but it is still based on $250 per family. The cumulative effect through 1985 is how much? My understanding is that it is $8.2 billion for fiscal years 1978 to 1985, based on a $250 credit per family. That is provided by the Budget Committee.

Mr. ROTH. Let me repeat the joint committee estimates. For the first year, 1978, it is roughly $175 million; 1979 is $1.2 billion; and 1980 is $1.2 billion.

Mr. KENNEDY. But that estimate is based on $250 per family.

Mr. ROTH. That is incorrect. The estimate is based on a tax credit for each individual dependent in college.

Mr. KENNEDY. Mr. President, I direct the Senator's attention to the amendment itself. It talks about the credit under this section shall be an amount equal to so much of the expense paid as does not exceed $250. It is drafted per individual. That means per individual taxpayer, not per individual student. We are talking about the individual taxpayer.

Mr. ROTH. The language states that the taxpayer could claim a tax credit for himself, his spouse, or his dependents. It depends upon the number of student dependents he has in college.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes left.

Mr. KENNEDY. I want to make it very clear; $8.2 billion at $250 per family is the revenue estimate. The intent of the author is $250 per dependent. That means the estimate will go up to between $13 billion and $14 billion by 1985.

Before time runs out, I want to explain my amendment.

What this amendment would do is phase out the tax credit for adjusted gross incomes between $25,000 and $30,000, the same way we did in terms of the $50 rebate earlier this year. The amendment follows exactly the same pattern. It saves about 15 percent of the total expenditure cost.

In the case of the $50 rebate, before it was dropped altogether, we phased it out for incomes between $25,000 and $30,000. It is the intention of this amendment to phase out the education credit for incomes between $25,000 and $30,000.

Another precedent is the home heating oil tax credit, which we adopted only last Saturday on the energy tax bill. We included a phaseout in the credit that begins at $15,000 of income. The phaseout in the pending amendment begins at $25,000.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I want to make very clear what my amendment does. It provides a tax credit of $250 per student in college, per dependent. I want to point out that the first year the cost would be $175 million.

Mr. President, my concern with the amendment of the Senator from Massachusetts is that it is going to have a very limited effect upon those who need aid. The Senator from Massachusetts would phase it out in the area of $25,000 to $30,000. But, as I mentioned earlier, 2 years ago we had the head of higher education at HEW, making $37,500 a year, resign because he could not afford to send his children to college.

There was an article in the New Republic, as well as one in Newsweek, which point out that Middle America, for the first time, is finding itself in a position where it sees downward mobility, where it is not able to reach the great American dream of sending its children to college. The figures show that the group that is trailing behind in continuing into higher education is middle working America.

Mr. LONG. Will the Senator yield at that point?

Mr. ROTH. Yes, I am delighted to yield.

Mr. LONG. As I understand it, this amendment provides a $250 tax credit to help families send their children to college. A family that has a family income of $30,000 would not get it.

Mr. ROTH. That is correct.

Mr. LONG. At $25,000 they would get the full amount; at $27,500, they would get half; at $30,000, they would get nothing.

Mr. ROTH. That is correct.

Mr. LONG. I say that anybody who wants to vote for the tax credit, try to explain to those people why you did that. We are saying, "All right, you are so rich. Maybe you have eight children in

the family, but you are so rich, with a $30,000 income, you are too affluent to get the benefit of it." For somebody making 60 percent of what we make here, if he sends his child to college, he is paying a lot of taxes, but he does not get it.

How does the Senator think that family is going to react when he explains, "I am sorry, but you are affluent, you are making $30,000 with that family. We want to help the other fellow send his children to college, but not you."

How does the Senator think they are going to take that when he explains that to them?

Mr. ROTH. They are not going to like it. I point out to the Senator from Louisiana that I had a teacher come to my office in Wilmington about 3 weeks ago, complaining that my tax credit was too little. She pointed out that she was working full time, that she has a job in the evening teaching, that her husband is teaching as well, and that they are unable to send their three children to college. They had to withdraw one from school.

Of course, under this amendment, they would not be eligible, and I would hate to face her again.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. ROTH. Yes.

Mr. BUMPERS. Does the Senator have a computation on what it is going to cost the Treasury if we include a refundable tax credit?

Mr. ROTH. We do not have an estimate for a refundable tax credit.

Mr. BUMPERS. Would the Senator agree with me that the amendment is inequitable for people who have to go to the bank and borrow money to pay their children's tuition and who have no tax of any consequence to pay? They get no credit, is that correct? Or would they get a refund?

Mr. ROTH. I point out to the distinguished Senator, that we do have a number of programs, both grants and loans, to help out those at the lower economic end of the scale. But I do believe your proposal could be considered at a later time.

Mr. BUMPERS. Does the Senator have any objection to a refundable tax credit? If the students are on grants, parents would not be eligible for a tax credit anyway.

Mr. ROTH. I point out to the distinguished Senator that I would be happy to work with him in the future if he wants to look into that. But I do not believe it would be possible in this legislation.

Mr. BUMPERS. But neither the Senator nor the committee has any idea of what this would cost if we made it a refundable tax credit?

Mr. ROTH. I do not have the figures.

Mr. LONG. If the Senator will yield on that point, I do not have an estimate on that. But would not this amendment make it possible to concentrate the money that is available for the grants and the loans at a favored interest rate, all of that on the low income people, because it would take the pressure off by helping people who are not in the low income area?

Mr. ROTH. That is correct. There are several billion dollars available, both in loans and grants, for that purpose.

Mr. BUMPERS. There are all kinds of funds for loans to students, too.

Mr. ROTH. I have limited time. Could we proceed on the pending amendment?

Mr. BUMPERS. I did not realize the Senator was under a time agreement.

Mr. ROTH. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. The Senator from Delaware mentioned a $250 credit per dependent. The cost estimate on that is about $13 billion. This is a huge Federal subsidy for higher education. But we are providing it for a very select income group, and denving it to the lower income groups. That is bad education policy. It is bad economic policy. It is bad tax policy.

Mr. President, it is important that the Senate know what it is doing. My amendment is an effort to modify the court in a more responsible and equitable way.

Mr. ROTH. Mr. President, I point out that we already have a number of tax credits in the law which do not discriminate against certain income classes. We have a child care credit. We have a home insulation credit and a solar tax credit in the energy bill. None of these credits have income limits. My amendment would not help only a select few. My proposal will help Middle America send its children to school. It will provide some relief to the people who are not eligible for the Government assistance programs their taxes make possible. I urge the rejection of the amendment of the Senator from Massachusetts. I shall make a motion to table it upon the expiration of the time.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. ROTH. Mr. President, I move to lay the amendment of the Senator from Massachusetts on the table. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts. The eyas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky, (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 52, nays 21, as follows:

[Rollcall Vote No. 625 Leg.]

YEAS—52

Allen	Garn	Packwood
Anderson	Glenn	Proxmire
Baker	Gravel	Randolph
Bellmon	Griffin	Riegle
Burdick	Hansen	Roth
Byrd, Harry F., Jr.	Hollings	Sarbanes
	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Laxalt	Stafford
Chiles	Leahy	Stennis
Church	Long	Stevenson
Curtis	Lugar	Stone
Danforth	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Wallop
Eagleton	Melcher	Zorinsky
Eastland	Nunn	

NAYS—21

Abourezk	Ford	McIntyre
Bayh	Hart	Metcalf
Bumpers	Haskell	Metzenbaum
Byrd, Robert C.	Hathaway	Moynihan
Clark	Javits	Nelson
Cranston	Kennedy	Pell
Culver	McGovern	Williams

NOT VOTING—27

Bartlett	Hayakawa	Pearson
Bentsen	Heinz	Percy
Biden	Helms	Ribicoff
Brooke	Huddleston	Sasser
Cannon	Humphrey	Scott
DeConcini	Johnston	Sparkman
Goldwater	McClellan	Stevens
Hatch	Morgan	Weicker
Hatfield	Muskie	Young

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

Mr. ROTH. Mr. President, I ask for the yeas and nays on the Roth amendment.

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

The yeas and nays were ordered.

UP AMENDMENT NO. 1061

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1061 to the Roth unprinted amendment numbered 1057.

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

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

The amendment is as follows:

At the end of the amendment add the following:

(d) CREDIT TO BE REFUNDABLE.—

(1) Section 6401(d) is amended—

(A) by striking out "oil) and 43" and inserting in lieu thereof "oil), 43",

(B) by inserting "and 44D" after "credit)", and

(C) by striking out "and 43," and inserting in lieu thereof ", 43, and 44D,".

(2) Section 6201(a)(4) is amended—

(A) by striking out "or 43" in the caption and inserting in lieu thereof ", 43, or 44D",

(B) by striking out "oil) or section 43" and inserting in lieu thereof "oil), section 43", and

(C) by inserting "or section 44D," after "income),".

(3) This subsection (d) shall be effective only during fiscal 1978.

Mr. BUMPERS. Mr. President, I will take only a few moments.

This amendment is very simple. It provides for a refundable tax credit for the year 1978. All it does is include the people in this country who are not in a taxable category, who pay no income tax, or who pay less than the $250 tax credit for a student that would be allowed under the Roth amendment.

The Roth amendment is projected to cost a billion dollars. This amendment simply would add $100 million to the cost of that amendment. It is a very small amount, but it certainly is egalitarian. It would be patently unfair for us to approve the Roth amendment and say to a lot of people in this country who need help much worse than those who are going to get it under the Roth amendment, "There is nothing in the bill for you."

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. BUMPERS. Mr. President, I will give a classic case in point, and I can speak from experience; because when I practiced law, I came across this frequently.

A woman with minor children loses her husband and is left to educate the children.

If her husband was covered under social security, as long as those children are minors or as long as they are in college and over 21, she and they would be entitled to social security benefits. It is a token amount, according to today's living standards. But this income is not taxable.

However, if this is her sole source of income, bear this in mind. She is trying to send a child to college on that small amount of social security payment and is limited in the past, as she has been, to $3,000 in earned income a year. She has virtually no taxable income. This amendment simply would say that she is entitled to that $250 tax credit. Why should she not be entitled to it?

I will give another example. I can tell Senators about one student in this country who paid his own tuition last year from his summer earnings, and that was my son. He at least helps sustain himself to the extent of paying his tuition. By his doing that, and the fact that I have paid 10 times that much to maintain him during the year, the Roth amendment would deprive me of the tax credit.

By the same token, youngsters who are paying all their tuition and all their expenses—and literally hundreds of thousands are doing so in this country today—would be deprived of this tax credit.

Finally, those people who are on basic educational grants would have that amount subtracted from any tax credit to which their parents would be entitled.

For those reasons and many more which I have not taken the time to enumerate for the Senate, this seems like a minimal amount to spend toward a very egalitarian purpose, one that is worthy and one that I certainly hope my colleagues will adopt.

Mr. RANDOLPH. Mr. President, will the able Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. RANDOLPH. Mr. President, I appreciate the family illustration of the Senator's son, during his work-study program. Frankly, there are thousands and thousands of sons, and yes, daughters too, not only teenage children, who earn money used in their education. These youth are working in the afternoon and at night as they pursue their college education and then receive degrees.

There is equity in the Senator's amendment, which I cosponsor. I support it, as the Senator from Arkansas (Mr. BUMPERS) has said because the provision is "worthy."

Mr. President, I recall that I worked as I went through academy and college years. Mrs. Randolph and I had two sons who did likewise.

I recall J. Buhl Shahan, a student in my classes at Davis and Elkins College. He sold over 100 items, with his wares on the racks of a bicycle. He graduated with honors and became a State senator and successful educator.

Mr. President, the Bumpers amendment makes sense. It will aid the mothers and fathers and their children. It will cushion the cost of higher education.

Mr. BUMPERS. I thank the Senator very much.

Mr. President, I have no purpose in elaborating further. I hope I have made the point. I made it about as well as I could make it if I had another hour to spend on it.

I am prepared to vote on it. I do not want to deprive the Senator from Delaware of an opportunity to respond if he chooses.

Mr. LONG. Mr. President, I had some doubts because of the point raised by the Budget Committee that we could make this a refundable tax credit, but there have been some consultations held and the last advice I heard from the Parliamentarian was that the amendment apparently did not violate the budget.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Does this amendment in the opinion of the Chair violate the budget provisions of law by which we are constrained at this moment?

The PRESIDING OFFICER. The Chair sees no violation of any applicable provisions of the Budget Act.

Mr. LONG. Mr. President, if that is the case, I hope that the Senator from Delaware will agree to accept the amendment.

Mr. ROTH. As long as it is within the budget resolution, the Senator from Delaware will accept it.

Mr. LONG. Mr. President, I ask unanimous consent that we rescind the order for the yeas and nays.

Mr. BUMPERS. I did not get the yeas and nays on this. I am prepared to vote on it.

Mr. BELLMON. Mr. President, just to keep the record straight, this is not in a budget resolution, but because of a fluke it is not subject to a point of order. It is plainly outside the budget resolution.

Mr. LONG. Mr. President, if it is not subject to the budget resolution, I hope the Senate will accept the amendment and take it by voice vote.

Mr. BUMPERS. I wish to do that.

Mr. President, I ask unanimous consent to add my colleague from West Virginia (Mr. RANDOLPH) as a cosponsor.

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

Mr. JACKSON. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. (Putting the question.)

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

The question now occurs on the amendment, as amended, by the Senator from Delaware.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. METCALF (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Tennessee (Mr. SASSER). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ABOUREZK (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Delaware (Mr. BIDEN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from

Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

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

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT), is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 60, nays 12, as follows:

[Rollcall Vote No. 626 Leg.]

YEAS—60

Allen	Griffin	Nelson
Anderson	Hansen	Nunn
Baker	Haskell	Packwood
Bayh	Hathaway	Proxmire
Bumpers	Heinz	Randolph
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Inouye	Roth
	Jackson	Sarbanes
Byrd, Robert C.	Laxalt	Schmitt
Case	Leahy	Schweiker
Chafee	Long	Stafford
Church	Lugar	Stevenson
Curtis	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Dole	Matsunaga	Tower
Domenici	McClure	Wallop
Durkin	McGovern	Williams
Eagleton	McIntyre	Young
Ford	Melcher	Zorinsky
Garn	Metzenbaum	
Gravel	Moynihan	

NAYS—12

Bellmon	Culver	Kennedy
Chiles	Glenn	Pell
Clark	Hart	Stennis
Cranston	Javits	Stone

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Metcalf, against.
Abourezk, against.

NOT VOTING—26

Bartlett	Goldwater	Johnston
Bentsen	Hatch	McClellan
Biden	Hatfield	Morgan
Brooke	Hayakawa	Muskie
Cannon	Helms	Pearson
DeConcini	Huddleston	Percy
Eastland	Humphrey	Ribicoff
Sasser	Sparkman	Weicker
Scott	Stevens	

So Mr. ROTH's amendment (No. 1057), as amended, was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

(The foregoing tally reflects the subsequent order entered pursuant to the request of Mr. JAVITS on December 15, 1977, that his vote be changed from "yea" to "nay.")

UP AMENDMENT NO. 1062

(Purpose: Relating to cost-of-living increases under social security.)

Mr. CHURCH. Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The Clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself and others, proposes an unprinted amendment numbered 1062.

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

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

The amendment is as follows:

At the end of title I of the Act, add the following new section:

COST-OF-LIVING INCREASES

(a) Effective with respect to monthly benefits and lump-sum death payments payable for months after November 1977, section 215 (i) of the Social Security Act is amended by—

1. Striking out paragraph (1) and inserting in lieu thereof the following:

"(i)(1) For purposes of this subsection—

"(A) the term 'base period' means (i) the three-month period ending on March 31, 1977, (ii) the month of August in 1977 or in any succeeding year, (iii) the month of February in 1978 or in any succeeding year, or (iv) any other month which is the effective month of a general benefit increase under this title;

"(B) the term 'cost-of-living computation period' means (i) a base period, as defined in subparagraph (A) (other than clauses (i) and (iv) thereof) which occurs after July 1977 in which the Consumer Price Index prepared by the Department of Labor exceeds, by not less than 4 per centum, such index in the later of (I) the last prior cost-of-living computation period which was established under this subparagraph (whether under the law in effect in November 1977, or after November 1977) or (II) the most recent month which was the effective month of a general benefit increase under this title, or (ii) a base period, as so defined, which occurs after July 1977, in which such Consumer Price Index exceeds, by not less than 3 percent, such index in the later of (I) or (II), and in which more than 5 months have elapsed since such later period or month and up to but not including the base period being considered; except that there shall be no cost-of-living computation period in any calendar year if in the year prior to such year a law has been enacted providing a general benefit increase under this title or if in such prior year such a general benefit increase becomes effective; and

"(C) the Consumer Price Index for a base period of 3 months or a cost-of-living computation period of 3 months shall be the arithmetical mean of such index for the 3 months in such period.";

2. Striking out so much of paragraph (2) as precedes the word "increase" and inserting in lieu thereof:

"(2)(A)(i) The Secretary shall determine each year beginning with 1977 (subject to the limitation in paragraph (1)(B)) whether a base period (as defined in paragraph (1)(A) (ii) or (iii) in such year is a cost-of-living computation period.

"(ii) If the Secretary determines that a base period in any year is a cost-of-living computation period, he shall, effective with the month of June of such year, where such period is the month of February of such year, and effective with the month of December of such year, where such period is the month of August of such year, as provided in subparagraph (B),"

3. Striking out "quarter" each place it appears after the word "increase" in the penultimate sentence of subparagraph (2)(A)(ii) and inserting in lieu thereof, "period";

4. Striking out "calendar period" in such penultimate sentence (as previously amended) and inserting in lieu thereof "month".

5. Striking out "(1)(A) (ii) in such penultimate sentence and inserting in lieu thereof "(1)(A)(iv)";

6. Striking out "months after May" and all that follows in subparagraph (2)(B) and inserting in lieu thereof:

"months (I) after May of the calendar year in which occurred such cost-of-living computation period in the case of an increase based on a cost-of-living computation period of the month of February of such year, or (II) after November of that year in the case of an increase based on a cost-of-living computation period of the month of August of such year, and in the case of lump-sum death payments with respect to deaths occurring after such May or November,";

7. Striking out "quarter" each place it appears in subparagraph (B), (C), and (D) of subsection (2) and inserting in lieu thereof "period"; and

8. Striking out (i)(A)(ii) in subparagraph (2)(C) and inserting in lieu thereof (i)(A)(iv)";

(b) Effective with determinations after 1977, section 230 of the Social Security Act by striking out subsection (a) and inserting in lieu thereof:

"(a) If the Secretary institutes pursuant to section 215(i) one or more benefit increases which become effective in any calendar year, he shall after October 1 and not later than November 1 of such year determine and publish in the Federal Register the contribution and benefit base determined under subsection (b) which shall be effective with respect to remuneration paid after such year and taxable years beginning after such year."

(c) Effective with determinations after 1977, section 203(f)(8)(A) of such Act is amended to read as follows:

"(A) If the Secretary institutes pursuant to section 215(i) one or more benefit increases which become effective in any calendar year, he shall after October 1 and not later than November 1 of such year determine and publish in the Federal Register a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after such calendar year."

(d) Section 1618(b) of such Act is amended to read as follows:

"(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall)—

(1) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617

and ending before July 1, 1978, are not less than its expenditures for such payments in the preceding twelve-month period, or

(2) beginning on July 1, 1978, and July 1 of each year thereafter are not less than its expenditures for such payments in the twelve-month period beginning July 1, 1977, and ending June 30, 1978, or, if the first such payments are made by a State after July 1977, not less than its expenditures for such payments in the first full twelve-month period beginning July 1 in which such payments are made."

(e) Effective with respect to monthly benefits and lump-sum death payments payable for months after December 1978, section 215(i) of the Social Security Act, as amended by subsections (a) through (d) of this section and by section 104 of this Act, is further amended by—

1. Striking out so much of paragraph (2) as precedes subparagraph (A)(i)(I) thereof and inserting in lieu thereof:

"(2)(A)(i) The Secretary shall determine each year beginning with 1978 (subject to the limitation in paragraph (1)(B)) whether a base period (as defined in paragraph (1)(A)(ii) or (iii) in such year is a cost-of-living computation period.

"(ii) If the Secretary determines that a base period in any year is a cost-of-living computation period, he shall, effective with the month of June of such year, where such period is the month of February of such year, and effective with the month of December of such year, where such period is the month of August of such year, as provided in subparagraph (B), increase—";

2. Striking out "quarter" each place it appears in the penultimate sentence of subparagraph (2)(A)(ii) and inserting in lieu thereof, "period";

3. Striking out "(1)(A)(ii) in such penultimate sentence and inserting in lieu thereof "(1)(A)(iv)";

4. Striking out "months after May" and all that follows in subparagraph (2)(A)(iii) and inserting in lieu thereof:

"months (I) after May of that year in the case of an increase based on a cost-of-living computation period of the month of February of such year, or (II) after November of that year in the case of an increase based on a cost-of-living computation period of the month of August of such year, and in the case of lump-sum death payments with respect to deaths occurring after such May or November.".

Sponsors of Church semiannual cost-of-living amendments:

Domenici, Clark, Williams, Pell, Stafford, Humphrey, Abourezk, Hatfield.

Riegel, Randolph, Stone, McIntyre, Eastland, McGovern, Metcalf, Melcher.

Bumpers, Leahy, Cannon, Anderson, Brooke, Thurmond, Bayh, Hart, Kennedy.

Magnuson, Weicker, Sarbanes, DeConcini, Heinz, Chiles, Case, Jackson.

Haskell, Durkin, Javits, Hollings, Percy, Ford, Metzenbaum, Biden, Burdick, Hathaway.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. CHURCH. Yes, I am happy to yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease conversations. Staff members will retire to the seats provided for them in the rear of the Chamber, and will cease conversations.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair. Mr. President, I take the floor at this time to ascertain what amendments remain to be offered, and to try, if possible, to secure time limitations on those amendments that remain to be offered.

It is the intention of the leadership, and I think I speak on behalf of Mr. BAKER and myself—he is present and can comment, and will, I am sure—to complete action on this bill tonight, and following that, we would hope, if it is not too late, that we can also take up and dispose of S. 2159, which has to do with the medical schools receiving capitation grants, and the enrollment of third year medical students in the school year 1978 and 1979 therein.

It is hoped that the time limitation agreement that has already been entered on that bill may be reduced, and I think there are good indications that that is possible.

Mr. BAKER. Mr. President, will the majority leader yield for just a moment?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have an indication that we can reduce the time limitation on this side of the aisle to 30 minutes on the bill and 10 minutes on each of two amendments, one, I think, by Mr. JAVITS——

Mr. JAVITS. No. One by Mr. SCHWEIKER and Mr. HATCH.

Mr. BAKER. SCHWEIKER and HATCH?

Mr. JAVITS. Well, it is going to be offered by Mr. SCHWEIKER.

Mr. ROBERT C. BYRD. Will the distinguished minority leader repeat that?

Mr. BAKER. Yes; we can reduce the time limitation previously provided for to 1 hour on the bill and 10 minutes on an amendment by Mr. HATCH and 10 minutes on one by Mr. SCHWEIKER.

Mr. ROBERT C. BYRD. I thought it was indicated there would be a possibility to reduce the time on the bill to 30 minutes.

Mr. BAKER. Yes; and there is another amendment, though, by the distinguished Senator from New York.

Mr. JAVITS. No, I have set it aside and will not have an amendment. But Senator MATHIAS is here, and he has an amendment.

Mr. MATHIAS. Ten minutes.

Mr. BAKER. And 30 minutes on the bill. Is that satisfactory?

Mr. JAVITS. Thirty minutes on the bill; I will take a chance on that in the absence of Senator WILLIAMS.

Mr. MATHIAS. I agreed with the Senator from Massachusetts that I could have about 7 minutes and he would have the balance, so there will be 10 minutes total on the amendment.

Mr. JAVITS. I do not know what the attitude of the Senator from Massachusetts is going to be.

Mr. ROBERT C. BYRD. I understand from the Senator from Massachusetts (Mr. KENNEDY) that he would be agreeable to cutting the time limit.

Mr. JAVITS. I know, but I do not know whether he is against the amendment. We are against it. So I suggest 5 minutes on the side, or, if Senator MATHIAS wants 7, give him 7.

Mr. ROBERT C. BYRD. Mr. President, could we pass that for a moment? I am still hopeful we can do that bill tonight, because I think it is important that it be done before we go out. But I want to move back, now, until we resolve that matter, without taking too much time, to the amendments that will remain to be called up on the pending bill.

Mr. CHURCH has an amendment at the desk at this time, while he is patiently indulging this colloquy. Would the Senator be agreeable to a 20-minute time limitation on his amendment, to be equally divided?

Mr. CHURCH. Yes, I would be happy with a 20-minute time limitation, but I would like to ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 20-minute time limitation on an amendment by Mr. CHURCH, to be equally divided and controlled in accordance with the usual form.

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

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that the time I am consuming not be charged to the amendment by Mr. CHURCH.

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

Mr. ROBERT C. BYRD. All right; now, Mr. Minority Leader, what is your proposal on the medical bill?

Mr. BAKER. I thank the majority leader. Mr. President, it is my understanding, and I see that the principals are here, with the possible exception of one, that we could reduce the time on the bill to 30 minutes, the time on an amendment by Mr. HATCH to 10 minutes, equally divided, the time on an amendment by Mr. SCHWEIKER to 10 minutes, to be equally divided, and the time on an amendment by Mr. JAVITS——

Mr. JAVITS. I have no amendment.

Mr. BAKER. Mr. JAVITS will have no amendment, and that covers the provisions we will have on this side.

Mr. ROBERT C. BYRD. And that the agreement be in the usual form?

Mr. BAKER. And that the agreement be in the usual form.

Mr. ROBERT C. BYRD. I make that request, Mr. President.

Mr. MATHIAS. Mr. President, reserving the right to object, I have an amendment.

Mr. BAKER. We provided for it. Ten minutes, to be equally divided.

Mr. JAVITS. I will allow him more from my time on the bill, if he needs more than 10 minutes equally divided. It can be adjusted.

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

Mr. ROBERT C. BYRD. I thank the distinguished minority leader and all Senators.

This all comes after the social security bill tonight. If action is completed on the social security bill tonight, as we anticipate it will be, and on the medical bill, there will be no session tomorrow.

Mr. President, there is a time limitation already agreed to on the Danforth amendment of 10 minutes, to be equally divided. There is an amendment by Mr.

JAVITS; is the distinguished Senator from New York agreeable to 40 minutes, equally divided?

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. Or less?

Mr. JAVITS. Forty minutes. We can say what it is; it is an amendment on unemployment compensation.

Mr. ROBERT C. BYRD. All right; Mr. President, I make that 40 minutes, equally divided, on the Javits amendment.

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

Mr. BAKER. Mr. President, Mr. TOWER has an amendment in the nature of a substitute. I understand he is agreeable to 40 minutes, to be equally divided.

Mr. TOWER. Mr. President, I will agree to that. It is not now in the nature of a substitute; it is being withdrawn. But I will agree to 40 minutes.

Mr. ROBERT C. BYRD. Mr. President, I make that request.

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

Mr. ROBERT C. BYRD. Mr. President, are there further amendments to the social security bill?

Mr. CURTIS. Mr. President, reserving the right to object, has any agreement been entered into with reference to the Church amendment?

Mr. ROBERT C. BYRD. Twenty minutes, to be equally divided.

Mr. CURTIS. Who will have charge of the time in opposition?

Mr. ROBERT C. BYRD. In the usual form; it will be the manager of the bill, or, if he is in agreement, then the distinguished minority leader or his designee.

Mr. CHILES. Mr. President, I have two amendments, on which I request 10 minutes.

Mr. ROBERT C. BYRD. Ten minutes equally divided?

Mr. CHILES. Ten minutes on each side.

Mr. ROBERT C. BYRD. All right. Two amendments by Mr. CHILES, 20 minutes on each, equally divided.

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

Mr. NELSON. Mr. President, reserving the right to object, what are they?

Mr. CHILES. We have discussed them with your staff. One has to do with an earnings limitation, and one is a retirement provision.

Mr. NELSON. Just so I will know, what is the earnings limitation amendment about?

Mr. CHILES. Let me get it for you.

Mr. ROBERT C. BYRD. Mr. President, while Senator CHILES is responding, Mr. GRIFFIN has an amendment. Is it agreeable that there be 20 minutes, equally divided, on that amendment?

Mr. BAKER. Mr. President, it is my understanding he is willing to accept 10 minutes, equally divided.

Mr. ROBERT C. BYRD. Ten minutes equally divided?

Mr. BAKER. Yes, 10 minutes equally divided.

Mr. ROBERT C. BYRD. Mr. President, I make that request, that there be a 10-minute limitation on Mr. GRIFFIN'S amendment.

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

Mr. BAKER. Mr. President, I understand the Senator from Kansas has an amendment.

Mr. DOLE. Mr. President, I have an amendment with the distinguished Senator from New York (Mr. MOYNIHAN) which will be accepted. It will take 1 minute.

Mr. CURTIS. Is it a good amendment?

Mr. DOLE. One which we have discussed with the distinguished floor leader of this bill, the ranking minority member, the Senator from Illinois, the Senator from Nevada, and the Senator from Oregon.

Mr. ROBERT C. BYRD. Mr. President, if I could have the attention of the Senator from Wisconsin (Mr. NELSON) for just a moment—and I beg his pardon, because he is working with Mr. CHILES on a time agreement—Mr. DOLE and Mr. MOYNIHAN, I believe, have an amendment. What is the time limitation?

Mr. DOLE. One minute.

Mr. ROBERT C. BYRD. One minute, equally divided?

Mr. DOLE. Right.

Mr. ROBERT C. BYRD. What a bargain.

Mr. DOLE. Right.

Mr. ROBERT C. BYRD. This is a bargain basement night.

Mr. CURTIS. I am a little suspicious; this looks like collusion.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. DOLE and Mr. MOYNIHAN there be 5 minutes equally divided. If they want to yield the time back, that will be all right.

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

Mr. MAGNUSON. How many hours does this add up to?

Mr. ROBERT C. BYRD. Not too many.

Mr. MAGNUSON. How many? Let us have some idea. We want to know if we are going to be here until 11 o'clock. I just added up the unanimous-consent agreements in my own mind, and it takes us up to 11 o'clock.

Mr. ROBERT C. BYRD. The Senator answered his own question.

Mr. MAGNUSON. We will stay until 11 o'clock?

Mr. ROBERT C. BYRD. Yes. May I say to the distinguished Senator that Mr. NELSON will yield back his time.

Mr. MAGNUSON. But the majority leader has us up to 11 o'clock.

Mr. ROBERT C. BYRD. No.

Mr. MAGNUSON. Unless I have added it up wrong.

Mr. ROBERT C. BYRD. The Senator never adds it up wrong.

Mr. ALLEN has an amendment. I will ask Mr. NELSON what time would be required there.

May I say to my friend from Washington, I do not believe we will be that late, but I could be wrong.

Mr. MAGNUSON. I will stay here until 11 o'clock in the morning, but I believe most Senators want to know or have a rough idea.

Mr. NELSON. What was the Senator's request?

Mr. ROBERT C. BYRD. On Mr. ALLEN'S amendment.

Mr. NELSON. Mr. ALLEN told me he only wished to speak on it for 3 minutes with no rollcall.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on rollcall votes of 10 minutes.

The PRESIDING OFFICER. Is there objection, The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Does the Senator from Tennessee reserve the right to object?

Mr. BAKER. We have no objection.

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

Mr. ROBERT C. BYRD. Now, Mr. President, if the distinguished Senator from Idaho will yield another 30 seconds, the distinguished Senator from Washington has very appropriately pointed out that we are going to be here quite a while yet under the best circumstances. I would hope that where Senators can restrain themselves they do so, and yield back their time, and also not ask for rollcall votes where they can restrain themselves. I see the distinguished Senator from Washington nodding his head affirmatively and with a beautiful smile on his face.

Now I will ask Mr. ALLEN what he would be agreeable to on his amendment.

Mr. ALLEN. I would just as soon not set a time limit, but I will not use more than 5 or 10 minutes on each amendment.

Mr. ROBERT C. BYRD. That is fair enough.

Mr. HEINZ. Will the Senator yield for a unanimous-consent request?

Mr. CHURCH. Yes, I will yield for that purpose.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bob Hepler, of my staff, be granted the privileges of the floor today and tomorrow.

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

Mr. CRANSTON. Mr. President, I ask the same for Jonathan Fleming of my staff.

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

Mr. CHURCH. Mr. President, this amendment would provide semiannual cost-of-living adjustments for social security beneficiaries during periods of accelerated inflation.

Under present law, social security benefits are increased automatically in July, provided that the consumer price index rises by 3 percent or more during the preceding year.

It was my privilege to sponsor legislation in 1972 which led to the establishment of this cost-of-living mechanism to protect social security beneficiaries from rising prices.

This represented an historic first step toward safeguarding older Americans from inflation. But the mechanism needs further tuning.

This amendment would authorize cost-of-living adjustments—in January

and July—provided the inflationary index increases by at least 4 percent semiannually from one benefit period to another. The measuring period would be from February to August to determine whether beneficiaries would be entitled to a cost-of-living increase in January, and from August to February for any possible July increase.

The PRESIDING OFFICER. The Senator will suspend. There is so much confusion and noise in the Chamber the Chair is unable to hear the Senator from Idaho. The Senate will be in order.

The Senator from Idaho.

Mr. CHURCH. I thank the Chair.

The first possible semiannual adjustment under the cost-of-living amendment would be in January 1978. A 4-percent inflationary rate from the first quarter in 1977 to August 1977 would be necessary to trigger a cost-of-living adjustment in January 1978.

Actually, Mr. President, the inflationary rate fell below the triggering point.

If the inflationary rate did not reach this level, social security beneficiaries would be entitled to a cost-of-living increase when the Consumer Price Index rises by at least 3 percent over a 12-month period since the last adjustment.

In the vast majority of cases, social security beneficiaries would still receive only one cost-of-living adjustment per year under the amendment because an annual inflationary rate of 8.2 percent would be necessary for semiannual adjustments. The amendment, though, would provide protection when the aged and disabled need it the most—during periods of rapid inflation when rising prices are washing away their purchasing power.

In the 1976 campaign President Carter endorsed more frequent adjustments in social security benefits during times of accelerated inflation.

Civil service annuitants now receive two cost-of-living increases a year. To my way of thinking, similar protection should be available for social security beneficiaries.

As things now stand, they receive only one cost-of-living adjustment, whether the inflationary rate is 3 percent, 13 percent, or 20 percent. A once-a-year adjustment may simply be too rigorous for older Americans struggling to get by on limited incomes. Semiannual adjustments would keep social security benefits more current with rising prices.

The amendment would not only provide greater protection against inflation for about 33 million social security beneficiaries, it would also help others as well.

More than 4 million aged, blind, and disabled supplemental security income recipients would benefit because the SSI automatic escalator provision is pegged to the social security cost-of-living adjustment mechanism.

In addition, about 1.4 million railroad retirement beneficiaries would be entitled to semiannual cost-of-living adjustments on the tier I portion of their annuities.

Inflation is the elderly's No. 1 enemy. As prices go up, their purchasing power dwindles.

This semiannual cost-of-living adjustment amendment can provide essential relief for these older Americans.

I am pleased that leading organizations in the field of aging, including the National Retired Teachers Association-American Association of Retired Persons and the National Council of Senior Citizens, have enthusiastically endorsed this amendment.

Today I received a letter from the National Retired Teachers Association and the American Association of Retired Persons endorsing the amendment. I ask unanimous consent that this letter may be printed at this point in the RECORD.

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

NATIONAL RETIRED TEACHERS ASSOCIATION-AMERICAN ASSOCIATION OF RETIRED PERSONS,
November 2, 1977.

HON. FRANK CHURCH,
Chairman, Special Committee on Aging, Washington, D.C.

DEAR SENATOR CHURCH: The 12 million member National Retired Teachers Association and American Association of Retired Persons strongly endorse your amendment to the social security financing legislation to provide more frequent cost-of-living adjustments in social security benefits.

The elderly, more than any other age group, are particularly vulnerable to the ravages of inflation. Their expenditures for basic needs and necessities are concentrated in areas where some of the sharpest price increases have occurred—housing, fuel, food and medical care. The majority of them, while unable to supplement their limited and fixed incomes with employment income, must watch as their meager retirement savings or investments are eroded away.

Under current law, social security and Supplemental Security Income benefits are automatically adjusted every July to reflect increases in the CPI which occur during the previous January through December period. Our Associations do not believe this automatic adjustment is adequate or timely enough to prevent a gradual erosion in benefit purchasing power particularly during periods of rapid inflation. A significant lag time exists between the measuring period (during which prices are actually rising) and the adjustment made in benefits.

Your amendment to improve the cost-of-living mechanism directly addresses this problem by substantially reducing the lag time between benefit adjustments and measuring periods. More importantly, your amendment would provide adjustments twice a year (in July and January) during periods when the CPI increases by an annual rate in excess of 6 percent. It therefore has our full and complete support.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

Mr. CHURCH. This amendment is based upon legislation—S. 1243, the Social Security Cost-of-Living Improvement Act—which I introduced earlier this year. That measure generated strong bipartisan support in the Senate. In fact, 44 Senators sponsored S. 1243.

Mr. President, I ask unanimous consent that a list of cosponsors of S. 1243—which would authorize semiannual cost-of-living adjustments for social security beneficiaries—be printed at this point in the RECORD.

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

SPONSORS OF CHURCH SEMIANNUAL COST-OF-LIVING AMENDMENT

Domenici, Clark, Williams, Pell, Stafford, Humphrey, Abourezk, Hatfield, Riegel, Randolph, Stone, McIntyre, Eastland, McGovern, Metcalf, Melcher, Bumpers, Leahy, Cannon, Anderson, and Brooke.

Thurmond, Bayh, Hart, Kennedy, Magnuson, Weicker, Sarbanes, DeConcini, Heinz, Chiles, Case, Jackson, Haskell, Durkin, Javits, Hollings, Percy, Ford, Metzenbaum, Biden, Burdick, and Hathaway.

Mr. CHURCH. Mr. President, for these reasons I urge the adoption of the amendment and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, how much time is reserved to the opposition?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. CURTIS. Mr. President, I yield myself 7 minutes.

Mr. President, here is an amendment that was brought here by compassion and interest for our elderly, but it is something which should not be adopted. It has far-reaching effects. It has never been before a committee and has never been analyzed. In a moment I will give some figures to show that this could become a costly thing running to $2 billion a year.

Here is what I want to remind Senators: It has to do with upgrading benefits twice a year instead of once a year. In 1972, a floor amendment was offered by the distinguished Senator from Idaho which, together with the increase in the benefits and that scheduling of automatic raises, brought about the very deficit that we have now. It was a matter not thrashed out in the committee. I commend the distinguished Senator for his interest in the elderly, but I believe the right way is to take this up in committee.

I find, after reviewing the material which the distinguished Senator from Idaho has provided me concerning his amendment, that I must rise in opposition.

By the very cost estimates included in that documentation, we find there is a long-range cost estimated of 0.03 percent of taxable payroll. Taxable payroll currently is running slightly over $800 billion this year. Over the next 75 years, however, taxable payroll will average approximately $6.4 trillion, a tenfold increase in 75 years. That means the long-range cost of this measure would be—using the Senator from Idaho's own figures—approximately $2 billion per year.

However, even this estimate is premised upon the intermediate assumptions of the Social Security Administration, and I have been advised that the actual rate of inflation being used is an average of 4 percent over the next 75 years, 4 percent inflation per year. Mr. President, we do not know what the inflation rate will be over that period of time. We do not know where it will be even 10 years from now. We have just finished a period of double-digit inflation, and if that kind of thing recurs the costs of the

Church amendment would be much higher than what these estimates tell us.

Moreover, Mr. President, I believe that the 0.03-percent estimate, and the 4-percent inflation rate, does not take into account the inflationary fuel that would be added by the very provisions being suggested by the Senator from Idaho. They are based upon current assumptions, not what the rate of inflation is likely to be if important programs like social security are indexed every 6 months, even for limited periods.

Finally, Mr. President, the cost estimates presented at this point do not appear to take into account the very real accompanying cost that will be involved for supplemental security income (SSI) and the railroad retirement program. Each of these has indexing formulas that are tied to social security.

For these reasons, Mr. President, I believe the amendment offered by the Senator from Idaho should be considered thoroughly in the Committee on Finance, where it has not even had the benefit of a hearing. We have never considered it; we have never analyzed it. We have had some experience with an amendment of this nature offered by the Senator before, which created a significant portion of the financing problem social security is now experiencing. I would trust, and I would urge, that the Senate be more careful this time, and I would call for consideration by the Committee on Finance of an amendment of this magnitude by the committee before it is hastily acted upon on the floor.

Mr. President, I hope that every Senator will consider the fact that we cannot recommit this amendment to the committee. If we could, that would be my move. Everyone dislikes to oppose an amendment and be in opposition. A vote of "no" must be regarded not as rejecting the good intentions of this amendment, but as the only means to have this far-reaching amendment be subject to a hearing and an examination.

Mr. President, the Committee on Finance does not always come up with the right answer. I am aware of that. But in the field of social security, our most costly amendments, those amendments that are not fully financed, usually come from the floor. That does not mean that the members of our committee are any more capable than anybody else, but it does prove that the system of committees holding hearings—announcing to the public what is going on, having the proponents come before it, cross-examination carried on by the committee members, the opposition appearing—is the right way to legislate.

I concede that the distinguished Senator from Idaho has excellent motives. His knowledge is just as good as that of any of the rest of us. But the procedure is lacking, the procedure for an open hearing before we start out on a program that could, very likely, cost as much as $2 billion a year.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. CHURCH. Mr. President, in reply to the distinguished Senator from Nebraska, I really do not believe that this amendment could ever have the far-reaching impact that he foresees as a possibility. I think it is a very modest amendment. It only seeks to do for social security beneficiaries what we do for civil service retirees and military retirees, except in this case, the semiannual adjustment would occur only in years of accelerated inflation.

How often in the past 25 years would this amendment have been triggered by an annual rate of inflation of 8.2 percent? Our figures show that only four times in the last quarter of a century would it have been necessary to have given a semiannual adjustment by virtue of the severity of inflation.

In all likelihood, there will be infrequent occasions in the future when it will be necessary to make this 6-month, rather than the annual, adjustment in social security benefits. But when we do have steep inflation, then common justice requires that those who live on the most limited income, the elderly of this country, should have at least the same protection now available to civil service annuitants and miltiary retirees.

As to our estimate on cost, Mr. President, we have estimated that the long-term cost of this amendment is .03 percent of the taxable payroll. There is no short-term cost projected because there is no anticipated near-term period when the trigger mechanism would invoke the semiannual provision.

The figures have been given to us by Harry C. Ballantyne, who is an actuary for the social security system. It is my understanding that Robert Myers, the former actuary, actually thinks that these estimates are on the high side, modest as they are.

So, Mr. President, I hope that the Senate will adopt this amendment. It will not prove costly, in my estimation. Moreover, it will do justice to the elderly. I urge the Senate's support.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. CHURCH. I am delighted to yield.

Mr. HARRY F. BYRD, JR. What is the triggering mechanism that the Senator refers to?

Mr. CHURCH. The triggering mechanism is an inflationary rate of 4 percent or more within a 6-month period. When those 6-month rates are compounded one on top of another, that amounts to an annual inflationary rate of 8.2 percent.

Mr. HARRY F. BYRD, JR. The Senator said 4 percent; then he said 8 percent.

Mr. CHURCH. Four percent is for a 6-month period; 8.2 percent is for an annual period.

Mr. HARRY F. BYRD, JR. So the triggering mechanism would be any time in a 6-month period that inflation exceeds 4 percent.

Mr. CHURCH. That is correct.

Mr. HARRY F. BYRD, JR. And if it is below 4 percent, there is no change.

Mr. CHURCH. There is no change. The annual adjustment would remain in effect.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas has 3 minutes remaining.

Mr. CURTIS. How much does the Senator from Nebraska have?

The PRESIDING OFFICER. The Senator from Nebraska has 3 minutes.

Mr. CURTIS. Mr. President, is there an industrial nation in the world that has inflation under control? Stagnation inflation and a depression.

Now, if this is such a good amendment, why not give it a hearing?

There was an argument just like this back in 1972 for automatically upgrading approximately a 20-percent increase in benefits without a proper increase in taxes. That has caused the newspapers and the air to fill with comments that the system is bankrupt, and all sorts of things that frighten people.

I say that if you are a friend of the aged, do everything you can to keep the social security fund out of trouble. A vote of "no" is a vote in favor of the aged and the younger people who are still paying the bill.

Many times recently we have had double digit inflation—a worldwide situation.

Furthermore, this Congress is not going to lose all its compassion. They can act every year. Unfortunately for the country, they are in session most of the time. So they can act quickly.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. CHURCH. Mr. President, I think that the answer to the argument made by the distinguished Senator from Nebraska is simply this: if we mismanage our economy so badly that we get back into double-digit inflation, then we ought not to extract the cost of that inflation from the elderly.

We must find the discipline, and we must find the remedy for inflation in our general spending and fiscal policies. But if we manage so badly to have double-digit inflation, then we must provide relief to older Americans or terrible suffering will result.

This amendment would only be triggered in those years when inflation is well above the average for people who depend upon social security for the bulk of their retirement income.

Therefore, I hope this amendment will be adopted.

Mr. CURTIS. Mr. President, again I repeat that the friends of the elderly and the friends of the people who are working and paying social security taxes should vote "no" on this amendment.

Can one imagine the heartache over the country and the uneasiness about "Will I get my social security?"

We do not have to leave the radio on very long to find commentators—they are exaggerating, they do not know what

they are talking about—that are frightening the people. They do not tell them we are taking in $82 billion and running over $6 billion and we have the problem already dealt with. They say it is bankrupt.

Well, from one standpoint, that may be true, but it is operating as it always has from the taxes from people who work to pay the beneficiaries. That is what social security is. It has never been a reserve annuity program.

A vote of "no" is a vote to protect the funds that belong to the aged of this country.

Mr. WILLIAMS. Mr. President, I wish to join the distinguished chairman of the Senate Special Committee on Aging (Mr. CHURCH) in proposing an amendment to the social security financing bill to authorize semiannual cost-of-living increases in social security benefits.

As former chairman of the Aging Committee, I have been deeply concerned about the devastating effects of inflation on our elderly citizens. Rising prices compel many of the aged living on fixed incomes to face increasingly difficult choices in allocating their limited resources. Expenses for basic needs—food, housing, fuel and health care—have increased at a greater rate than all other items in the Consumer Price Index by 29 to 43 percent. For the substantial number of elderly citizens who depend solely on their social security benefits, high inflation rates place a crushing burden on their budgets.

It is therefore essential that we take immediate steps to alleviate this situation. The amendment we are proposing would authorize cost-of-living adjustments in July and January if the Consumer Price Index increased by at least 4 percent in a 6-month measurement period. If the Consumer Price Index does increase by this percentage within the appropriate period, social security beneficiaries would receive a cost-of-living adjustment when the Index increased by at least 3 percent, as under present law.

Thus, this amendment would protect the elderly during periods of high inflation. Since it is unlikely, however, that prices will rise by more than 8 percent every year, in most years beneficiaries would only receive one cost-of-living adjustment. In the past 25 years, there have been only 4 times where prices rose by 4 percent or more in the 6-month measurement periods specified in this amendment—August to February and February to August. Thus, the long-range cost of this amendment is expected to be slight. It is anticipated that the cost will be .03 percent of taxable payroll. It therefore will be necessary to raise taxes beyond the levels set by the Finance Committee.

Mr. President, it is time that we attempt to deal realistically with the debilitating effects of inflation on a group of citizens least able to cope with this burden. For this reason, I urge a favorable decision on this amendment.

Mr. CHURCH. Mr. President, earlier this afternoon I included a table from the Social Security Administration which pointed out that the Goldwater amendment was about $2 billion more expensive per year than my amendment to reduce the upper age from 72 to 70 for application of the retirement test.

This table was based on the understanding that the Goldwater amendment raised the earnings limitation for all social security beneficiaries to $4,500 a year in 1978, and to $6,000 in 1979, and that, in 1982, the earnings ceiling would be abolished entirely for persons 65 or older.

The final version of Senator GOLDWATER'S amendment, however, increased the earnings limitation only for persons aged 65 through 71 to $4,000 a year in 1978, $4,500 in 1979, $5,000 in 1980, and $5,500 in 1981. In 1982 the retirement test would be repealed for persons 65 or older. This measure is based upon the House-passed provisions affecting the retirement tests exempted amounts.

Mr. President, I ask unanimous consent to insert in the RECORD a table comparing the additional cost of the Goldwater amendment, as submitted, to the Church amendment and the Finance Committee bill.

This table reveals that in 1982—the year the Goldwater amendment would have repealed the retirement test for persons 65 or older—the added cost of the Goldwater amendment, compared with the Church amendment, would be $400 million, increasing to $600 million a year from 1983 to 1987.

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

COST OF GOLDWATER AMENDMENT AND CHURCH AMENDMENT AS COMPARED TO THE COST OF THE SENATE FINANCE COMMITTEE BILL

[In billions of dollars]

Calendar year	Committee bill	Goldwater amendment	Additional cost
1978	0.8	0.3	−0.5
1979	2.0	.5	−1.5
1980	2.4	.6	−1.8
1981	2.5	.6	−1.9
1982	2.6	3.4	+.8
1983	2.7	3.7	+1.0
1984	2.8	3.8	+1.0
1985	2.9	3.9	+1.0
1986	3.0	4.0	+1.0
1987	3.1	4.1	+1.0
		Church amendment	
1978	.8	0.8	
1979	2.0	2.0	
1980	2.4	2.4	
1981	2.5	2.5	
1982	2.6	3.0	+.4
1983	2.7	3.1	+.4
1984	2.8	3.2	+.4
1985	2.9	3.3	+.4
1986	3.0	3.4	+.4
1987	3.1	3.5	+.4

Mr. CLARK. Mr. President, Senators CHURCH, DOMENICI, and I are joined by 40 cosponsors in offering an amendment today that would provide relief during periods of rampant inflation to the millions of Americans who depend on the social security system for their income.

Basically, this amendment would adjust benefits for inflation on a semiannual basis, when the cost of living goes up more than 4 percent over a 6-month period. At the present time, adjustments are made just once a year, forcing older Americans and other social security beneficiaries to wait as many as 12 months before they receive financial relief.

We know that two items alone—food and medical care—account for one-third of the household expenses for retired persons. We also know that the prices of these items have inflated substantially over the past several years, placing a great burden on senior citizens living on fixed incomes.

Each day, older Iowans write me about the overwhelming problems they are facing in meeting their ever-increasing expenses. They simply cannot wait a year until social security benefits reflect the inflation they encounter every week in the grocery store and at the doctor's office.

To reduce the hardship during periods of high inflation, our amendment would instruct the Social Security Administration to make cost-of-living adjustments semiannually when the Consumer Price Index rises by at least 4 percent over a 6-month period. These increases would occur in July, accounting for inflation from August to February, and in January, covering the inflation from February to August.

This amendment would not alter the existing cost-of-living provision that applies to the annual inflation rate. When inflation does not increase by 4 percent in 6 months, beneficiaries would still receive a yearly adjustment in July as long as the cost of living rose 3 percent over the previous year.

The Social Security Administration's Board of Trustees has informed us that this amendment would have virtually no cost impact on the social security system. The long range cost would amount to no more than 0.015 percent for employers and employees. Using the Board of Trustees' assumptions for inflation for the next 5 years, there would be no short-term cost.

While the immediate responsibility of Congress is to restore balance to the social security trust funds, we must not ignore our responsibility for insuring that the OASDI program truly provides "social security" to those who depend on it. We should note that the income problems for older Americans are affecting an ever-growing proportion of this Nation. In fact, by the end of this century, nearly one out of every six Americans will be a senior citizen.

We should also not forget that there are about 7 million low-income older Americans among us, representing 1 of every 3 Americans 65 years or older. These are the very people who are inflation's greatest victim, and to whom we are obligated to cushion the impact of rising prices.

Nearly all elderly individuals rely on the social security program, which provides about half of all income for aged persons living alone. Because of this heavy dependence of older Americans upon the social security programs and other fixed income programs, every effort should be made to insure that benefits are adjusted for increases in the cost of living.

I urge the Senate and the House of Representatives to accept this amend-

ment. It would instill in older Americans a greater sense of financial security and would help restore their trust in the social security program and in the Federal Government.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the unprinted amendment No. 1062. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

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

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT), is absent on official business.

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

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from North Carolina (Mr. HELMS).

If present and voting, the Senator from Oregon would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 50, nays 21, as follows:

[Rollcall Vote No. 627 Leg.]

YEAS—50

Allen	Clark	Hart
Anderson	Cranston	Haskell
Bayh	Culver	Hathaway
Bumpers	Danforth	Heinz
Burdick	Domenici	Hollings
Byrd, Robert C.	Durkin	Inouye
Case	Ford	Jackson
Chiles	Glenn	Javits
Church	Gravel	Kennedy
Leahy	Nelson	Schmitt
Magnuson	Packwood	Schweiker
Matsunaga	Pell	Stevenson
McGovern	Proxmire	Stone
McIntyre	Randolph	Thurmond
Melcher	Riegle	Williams
Metzenbaum	Roth	Young
Moynihan	Sarbanes	

NAYS—21

Baker	Garn	Nunn
Bellmon	Griffin	Stafford
Byrd, Harry F., Jr.	Hansen	Stennis
	Laxalt	Talmadge
Chafee	Long	Tower
Curtis	Lugar	Wallop
Dole	Mathias	
Eagleton	McClure	

NOT VOTING—29

Abourezk	Hatfield	Pearson
Bartlett	Hayakawa	Percy
Bentsen	Helms	Ribicoff
Biden	Huddleston	Sasser
Brooke	Humphrey	Scott
Cannon	Johnston	Sparkman
DeConcini	McClellan	Stevens
Eastland	Metcalf	Weicker
Goldwater	Morgan	Zorinsky
Hatch	Muskie	

So Mr. CHURCH's amendment (No. 1062) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment 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. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is to be recognized. Does the Senator from Alabama yield to the Senator from New Jersey?

Mr. ALLEN. I yield.

Mr. WILLIAMS. I thank the Senator from Alabama.

UP AMENDMENT NO. 1063

(Purpose: Relating to coverage under divided retirement system for State and local employees in New Jersey.)

Mr. WILLIAMS. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. WILLIAMS), for himself and Mr. CASE, proposes an unprinted amendment numbered 1063.

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

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

The amendment is as follows:

At the appropriate place in the Act, insert the following new section:

COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN NEW JERSEY

SEC. . Section 218(d)(6)(C) of the Social Security Act is amended by inserting "New Jersey," after "Nevada,".

Mr. WILLIAMS. Mr. President, today I join the distinguished senior Senator from New Jersey in introducing an amendment to the social security financing bill.

This amendment would add the State of New Jersey to the list of 20 States which now allow public employees to obtain social security coverage under the divided retirement system provision of the Social Security Act. Under this provision, a State has the option to extend social security coverage to public employees who elect to receive such coverage.

An identical provision was adopted by the Senate as an amendment to H.R. 3153 in the 93d Congress. Unfortunately, this provision was not finally approved because the conference committee never completed action on this bill. This amendment I offer today recently passed the House in H.R. 9346, the social security financing bill.

Last year, I received over 5,000 signed letters from the Essex County Board of Education Employees Pension Fund advocating the extension of social security benefits to workers and officials throughout Essex County. These letters indicate what I believe to be abundant support for this proposal.

Mr. President, this measure would help to shore up the social security funds as well as extend desired coverage to public employees in New Jersey. A substantial group of my constituents have waited a number of years for this change, and I am hopeful that the Senate will approve this amendment.

Mr. LONG. Mr. President, we accept the amendment.

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

The amendment was agreed to.

Mr. LONG. Mr. President, when the Senator from Idaho (Mr. CHURCH) offered his amendment to reduce the upper age limit of the retirement test from 72 to 70, he said that his amendment was a substitute for the Goldwater amendment. This had the effect of striking the Finance Committee language raising the retirement test in two steps to $6,000 in 1979. Senator CHURCH did not intend to strike this language in the Finance Committee bill. In fact, his accompanying statement indicated that his amendment would not change the Finance Committee provisions to raise the social security earnings limitation to $6,000 a year in 1979.

Therefore, I ask unanimous consent that the language in H.R. 9346 from page 47, line 1, to page 48, line 12, stricken by the Goldwater amendment, as amended, be restored to the bill.

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

AMENDMENT NO. 1619

Mr. ALLEN. Mr. President, I have two amendments, and I do not intend to ask for a rollcall on either.

I call up at this time amendment No. 1619.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an unprinted amendment numbered 1619.

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

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. . There is hereby allowed to each individual taxpayer, who has paid social security taxes as an employee, as a deduction from income subject to Federal income taxes an amount equal to 50 per centum of all social security taxes paid by such taxpayer in the calendar year 1979 and subsequent years, such deduction to be claimed on the taxpayer's return for the year in which such social security taxes are paid. Self-employed taxpayers may deduct 50 per centum of that portion of social security taxes paid by them that they would have paid on their earnings if they had been employees.

Mr. ALLEN. Mr. President, as we all know, social security taxes on the employees are not deductible against income tax by the employees.

Here we are adding by this bill on employers and employees over the 5-year period some $72 billion. The purpose of this amendment is to provide that 50 percent of the amount that employees pay as social security shall be deductible against income subject to Federal income taxes.

The employer, if it is a profitmaking concern, a business concern, that is not a nonprofit organization or eleemosynary institution or university, is allowed to deduct all of its social security payments on its employees. And this would permit employees to deduct 50 percent of the amount that they pay in social security. It would not be a credit. It would be merely a deduction.

Assume that an employee paid $1,000 in social security taxes. He would be able to deduct from income subject to Federal income tax 50 percent of that amount or $500. That would be allowed as a deduction against income.

The Joint Committee on Taxation staff, subsequent to the introduction of the amendment, had furnished figures showing that this cost in the year 1980 would be $7.9 billion and going up from there as more social security taxes were paid. Obviously, that would be a very heavy load on the Treasury.

I hope that the manager of the bill could take the amendment and scale the 50 percent down in conference. I do not ask for a rollcall, and I do not care to make any further remarks with respect to the amendment.

Mr. LONG. Mr. President, this amendment would impose a tremendous burden on the budget. For example, this bill is estimated in 1980 to raise $8.5 billion for the social security fund. But the amendment the Senator offers would cost us $7.9 billion. So we would only have a net gainer of $600 million if the amendment is adopted. It would not burden the social security fund, but it would cause us to lose almost as much in general funds as we pick up in social security taxes. The cost would go on up to where in 1986 it would be $15.8 billion. Over the period between 1980 and 1986 the cost of the amendment would be $80.6 billion.

I do not think the Senate wants to agree on something like that without giving a great deal of thought to it.

I would have to urge that the Senate not agree to this amendment.

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

Mr. LONG. I yield.

Mr. NELSON. The amendment has a great deal of appeal, but it is highly involved.

If we do this on social security taxes, it will follow the Senate is likely to do it with reference to the deduction for civil service retirement. We should also keep in mind that social security benefits are nontaxable.

It is quite unlikely that the program could go on giving a tax benefit for paying in and retaining the tax free benefit that the beneficiary receives when he gets his retirement.

I remind the Senator that the authority to make it tax free is not statutory. It is by regulation and could be changed any time, and I do not know how much this would cost.

Mr. LONG. The cost of this amendment would be as much or more than the bill would raise. In the year 1983 the bill would raise $11.5 billion. In that same year the cost of this amendment would be $19.3 billion. In other words, the cost of this amendment would exceed what the bill would raise by $8 billion in 1983.

So while the Senator has a thought that should be explored, I hope that we not get involved in it at this point tonight on this bill.

Mr. CURTIS. Mr. President, I just say this: It is the floor amendments that are jeopardizing the social security fund. We have been fighting here over amendments how to recoup the deficiency in the social security fund. On the Church amendment we just repeated the matter. It should have been heard before the committee. This should be, also.

These things are complicated. They cost more than it seems like, and we cannot accept these amendments on the basis of appeal that they have. It is a matter of dollars and cents, and we either protect the fund for the benefit of all the people of the country or we do not.

Mr. LONG. Let us vote.

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

(Putting the question.)

The PRESIDING OFFICER. The "nays" appear to have it. The "nays" have it.

The amendment was rejected.

UP AMENDMENT NO. 1064

Mr. ALLEN. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment No. 1064.

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

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

The amendment is as follows:

At the end of the bill, add the following new section.

SEC. . (a) That, notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplemental payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by HEW determines that—

(1) such amount was paid by such State as a supplemental payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled "An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes," approved July 9, 1973, or such amount was paid by such State as an optional State supplementation, as defined in section 1616 of the Social Security Act, during the calendar year 1974,

(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare, through the State data exchange, or good faith reliance upon incorrect payments made by such department, and

(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. ALLEN. Mr. President, the amendment I offer at this time is needed to enable the Social Security Administration to repay Alabama approximately $600,000 which has been owed to the State since 1974.

When the supplemental security insurance (SSI) program was implemented on January 1, 1974, Alabama, along with approximately 17 other States, chose to have State administration of the mandatory supplementation. The law mandated that State welfare agencies supplement the amount given by SSI, at least up to the amount the person was receiving from the State agency in December 1973. For example, if a person was receiving $100 from the State agency in December 1973, and SSI determined him to be eligible for $50 from their program, pensions and security was mandated to also send him a $50 check. The only method whereby the department of pensions and security could determine the amount for which it was liable to each client was by SDX tapes from SSI in Baltimore, which listed the amount of payment the person received from SSI and thus determined the State agency match. For the first 3 months of 1974, these tapes were grossly incorrect and inaccurate and caused Alabama to expend $1.2 million in erroneous payments based on these faulty data furnished by SSI. After the first quarter of 1974, SSI was able to furnish the States more accurate data and the overpayments ceased.

Following discussions between representatives of the Social Security Administration and the Alabama Department of Pensions and Security, Gov. George Wallace wrote to Mr. James B. Cardwell, Commissioner, Social Security Administration, and requested that immediate reimbursement be made to Alabama for the amount of $1.2 million. Commissioner Cardwell replied to Governor Wallace that the matter was under consideration. After discussion regarding Alabama's claim with Dr. David Mathews—who was Secretary of HEW at the time—representatives from the Alabama Department of Pensions and Security met with SSA officials and HEW auditors and agreed on

a statistically valid sample for an audit of Alabama's claim against HEW for States-administered mandatory supplementation payments. The audit was conducted from October 1975 through March 1976, and the subsequent audit report stated that the amount of $600,000 was owed to the State of Alabama. There was approximately $30,000 in addition which the auditors recommended be negotiated between SSI and the Alabama Department of Pensions and Security.

After completion of the audit, the Social Security Administration stated that it would be necessary to have legislative authority to repay Alabama any moneys.

However, the Social Security Administration was unable or unwilling to come up with a legislative proposal that was acceptable to Alabama.

The States that elected to have Federal administration of the SSI program have had their claims settled, since it did not take enabling legislation.

Mr. President, this amendment would not require large amounts of money. It is my understanding that there are not more than six States that would make claims under this enabling legislation and the largest amount reported, with the exception of Alabama, is a claim of approximately $83,000.

Mr. President, I have a copy of the audit by the Department of Health, Education, and Welfare. It is lengthy, therefore I am not requesting that the entire report be printed in the CONGRESSIONAL RECORD. However, I would like to read a portion of the audit listed under the subtitle "Conclusion and Recommendation."

. . . We believe that our estimates are statistically reliable, that the State has a valid claim for about $600,000, and that our estimates may be used as a basis for negotiating a settlement of the State's claim. Consequently, we recommend them for that purpose.

As I pointed out in an earlier part of my statement, negotiations for a settlement were never completed because Commissioner Cardwell stated that it would be necessary to have legislative authority before the Social Security Administration could repay Alabama these funds.

The situation is that the State of Alabama and some 16 other States, none having the stake in it that Alabama has, acting on information furnished by the Department of HEW, made excess payments to SSI recipients. They have sought to negotiate with HEW for the loss sustained by this misinformation furnished by HEW. As I stated, an audit was made by HEW itself of the claim which at that time on behalf of the State of Alabama was $1.2 million, and the audit for identification purposes—I am not going to ask that the entire audit be placed in the RECORD because it is over 30 pages long—but I identify the audit by stating that it is HEW Audit Agency Region IV, Audit Control No. 04–62305.

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

Mr. ALLEN. I yield.

Mr. LONG. How much is involved in the audits and the settlement with the States involving the Senator's amendment?

Mr. ALLEN. $600,000.

Mr. LONG. Does the Senator mean the entire amount or only the amount for Alabama?

Mr. ALLEN. Alabama is only one of that large amount. I believe the next largest is $83,000. There is less than $1 million involved. Kentucky is one of the States. I have a list of the States here.

Mr. LONG. What is the amount involved for all the States involved in the amendment?

Mr. ALLEN. Less than $1 million.

Mr. LONG. Mr. President, I believe the amendment should be considered in conference and I hope the Senate will agree to it.

Mr. ALLEN. I hope the Senator would not assign to this amendment that classification that it be an amendment that is going to be considered in conference.

Mr. LONG. My understanding is that the department does not oppose the amendment; is that correct?

Mr. ALLEN. They state they do not have authority without this legislation being passed.

Mr. LONG. I am not aware that the department opposes it. They feel it should be paid, but they say they do not have the authority the Senator seeks to provide.

Mr. ALLEN. That is correct.

I was trying to read from the audit itself where it is stated:

We believe that our estimates are statistically reliable; that the State has a valid claim for about $600,000, and that our estimates may be used as a basis for negotiating a settlement of the State's claim. Consequently, we recommend them for that purpose.

Mr. LONG. Well, Mr. President, I believe the amendment is meritorious and, of course, we will hear from the administration, and they can state their position in conference.

It is my impression that this is a meritorious amendment. It involves a claim the States have, and insofar as I am able to determine, these are claims that ought to be paid. I would like to see it accepted so we can take it to conference.

Mr. ALLEN. Yes. I will furnish the distinguished Senator a copy of the audit for use in the conference.

Mr. LONG. If the administration concurs when we have the administration witnesses before us in conference that the amendment has the merits the Senator says it has—and I have no reason to believe they would not—then I think the House would be willing to accept it.

Mr. ALLEN. I thank the distinguished Senator.

Mr. HANSEN. Mr. President, I have just glanced at the amendment, and I am not certain I understand completely what it does, but with the understanding that it will be limited in its application and will not be unduly expensive, I will not raise any objection. I do think we want to look at it very closely in conference, I will say to the chairman, the floor manager of the bill.

Mr. ALLEN. The State of Alabama's claim is only $600,000. Other States have——

Mr. HANSEN. With that understanding, I have no objection.

Mr. ALLEN. I think it drops down to $83,000 below that.

Mr. President, I ask my colleagues to lend their support to the amendment, so that restitution due the State of Alabama—according to HEW's own audit—can be made without further delay.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

UP AMENDMENT NO. 1065

(Purpose: To provide for an authorization of appropriations for the amount by which the tax on States and nonprofit organizations is reduced.)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration, and I ask that the clerk read the amendment in its entirety.

The PRESIDING OFFICER. There is a 10-minute time limit on this amendment, 5 minutes to a side.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1065:

At the end of section 106, insert the following:

(c) There are authorized to be appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Hospital Insurance Trust Fund for each fiscal year amounts equivalent to the amounts which would have been deposited in such trust funds during that fiscal year but for the amendments made by this section.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, I do think this amendment poses an important question that should be determined by a rollcall vote. The Senate will remember that this morning it adopted an amendment which I offered which would amount to a rate reduction for nonprofit employers and for State and local governments. That amendment was the second version of an original proposal I had which would have provided that this group of employers would have paid in the full amount to the social security trust fund and then recouped 10 percent of their social security liability from the Treasury by means of a refundable tax credit.

The proposal ran into some problems with the Budget Committee and with the Budget Act and, therefore, I transformed it into a simple rate reduction.

But as a result of that there will be a shortfall amounting to in the neighborhood of $1 billion to $2 billion a year which otherwise would go into the social security trust fund.

This amendment would authorize appropriations in the amount of those shortfalls into the trust fund.

It could be argued that this amounts to an infusion of general revenues into

social security and, for that reason, I call it to the Senate's attention.

However, I would point out the fact that what it actually amounts to in practicality is an offset from general revenues of social security liability which would otherwise be incurred by this class of employers.

The way the tax laws work now for a profitmaking employer there is such an offset; that is, when a profitmaking employer pays his social security tax he recoups, in the case of a corporation, 48 percent of the social security tax from the Treasure by virtue of the fact that he will receive a deduction from his Federal income tax in the amount of the social security tax paid.

The original purpose of my concept of a refundable tax credit was to provide something of the same, although to a limited extent, for not-for-profit and for governmental employers.

It is my understanding that this amendment is acceptable to the leadership of the Committee on Finance and is also supported by the administration.

Mr. LONG. Mr. President, as the Senator stated, in view of the Senate's concurrence with the Danforth amendment we believe the Senator from Missouri is doing the responsible thing in moving for an authorization for appropriations from the general fund to the social security fund to cover the costs of the previous Danforth amendment.

I can only applaud him for offering the amendment since he was precluded from doing what he is seeking to do by way of a refundable tax credit. So I personally will vote for the amendment. Anyone who wants to oppose it I would be glad to yield time to speak in opposition.

Mr. DANFORTH. How much more time do I have?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. DANFORTH. I will yield 1 minute to the Senator from Kansas.

Mr. DOLE. Mr. President, I applaud the distinguished Senator from Missouri for his first amendment. I cannot applaud him as loudly for his second amendment. I know it may seem inconsistent, and it may be, but what we are doing, as a matter of principle may I say to this body, is we are dipping into general revenues to pay for certain social security benefits even though they may be indirect in this case, and I trust the Members of the Senate understand that when they vote.

Mr. LONG. Mr. President, if there are no more requests for time, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back his time. All time being used, the question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. FORD assumed the chair and was succeeded by Mr. MELCHER).

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Carolina would vote "nay."

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

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 44, nays 26, as follows:

[Rollcall Vote No. 628 Leg.]

YEAS—44

Anderson	Haskell	Packwood
Baker	Heinz	Pell
Bayh	Hollings	Randolph
Bumpers	Inouye	Riegle
Case	Jackson	Roth
Chafee	Javits	Sarbanes
Clark	Kennedy	Schmitt
Cranston	Laxalt	Stafford
Curtis	Long	Stevenson
Danforth	Lugar	Stone
Domenici	Mathias	Talmadge
Eagleton	Matsunaga	Tower
Ford	McGovern	Wallop
Garn	McIntyre	Williams
Gravel	Moynihan	

NAYS—26

Allen	Dole	Melcher
Bellmon	Durkin	Metzenbaum
Burdick	Glenn	Nelson
Byrd, Harry F., Jr.	Griffin	Nunn
	Hansen	Proxmire
Byrd, Robert C.	Hathaway	Schweiker
Chiles	Leahy	Stennis
Church	Magnuson	Thurmond
Culver	McClure	Young

NOT VOTING—30

Abourezk	Biden	DeConcini
Bartlett	Brooke	Eastland
Bentsen	Cannon	Goldwater
Hart	Johnston	Ribicoff
Hatch	McClellan	Sasser
Hatfield	Metcalf	Scott
Hayakawa	Morgan	Sparkman
Helms	Muskie	Stevens
Huddleston	Pearson	Weicker
Humphrey	Percy	Zorinsky

So Mr. DANFORTH's amendment was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

GI BILL IMPROVEMENT ACT

Mr. CRANSTON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8701.

The PRESIDING OFFICER Mr. MELCHER) laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 8701) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes.

(The amendment of the House is printed in the House proceedings in the RECORD of November 3, 1977.)

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President——

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

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. (Putting the question). The "yeas" have it.

Mr. JAVITS. Mr. President——

The PRESIDING OFFICER. The motion is agreed to.

Mr. JAVITS. Mr. President, I sought recognition before the motion to table.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this amendment was not even identified. Is this the veterans bill conference report?

Mr. CRANSTON. The GI bill, yes.

Mr. JAVITS. Has any explanation been made as to what has been done?

Mr. CRANSTON. Yes.

Mr. JAVITS. On the record here? I would like to know what was done, Mr. President. I hope we are not operating that way quite yet.

Mr. CRANSTON. I believe the Senator is aware——

Mr. JAVITS. Whether I am aware or not, nothing has been said about it on the Senate floor. In all fairness I believe it should be. I protested this particular

bill and had an amendment in it. I would like to publicly know what the Senator has done and why.

Mr. CRANSTON. Let me very briefly state the circumstances, which have been communicated to all interested Senators. There is an urgent need for passing this measure now.

Mr. President, I rise to urge my colleagues to support the compromise agreement on H.R. 8701, "the GI Bill Improvement Act of 1977," which was passed unanimously by the House yesterday, so that we may send it on to the President.

Mr. President, there is an urgent need for us to pass this measure now. The 6.6 percent cost-of-living increase is badly needed and will benefit all of the more than 1 million veterans now enrolled in programs under the GI bill.

Mr. President, as the Members of this body are well aware, the measure that originally passed the House as H.R. 8701 and the measure which we sent back to them on October 19, substituting the language of S. 457, as reported, were vastly different. In addition to the rate increases, the House-passed version had few other provisions. Three were aimed at administrative difficulties which had arisen in the implementation of the GI bill amendments made by Public Law 94–502. The Senate-passed amendment, on the other hand—in addition to providing in title I of the bill for a 6.6 percent cost-of-living increase in benefit levels and a cost-of-living increase in the work-study allowance, a provision not included in the House measure—contained three other titles with 33 substantive provisions.

The compromise agreement includes the Senate provisions in full or in part on all but six of these provisions.

Mr. President, I strongly believe that the compromise agreement that we have been able to work out with the Members of the other body fully vindicates the policies and goals set forth in the Senate bill. We have been able to retain the total extension of the delimiting date for those individuals who could not start or complete training under the GI bill because of a physical or mental disability. The House had no comparable provision in its original bill.

As to the general delimiting period extension, it is our belief that the provisions of the compromise will make it possible for us to achieve our policy goal in this respect as well—that is, to provide the means for serious veteran-students who could not complete their educational goals because their delimiting date passed to be able to earn their degrees and diplomas.

Regarding acceleration of benefits for veterans enrolled at higher-cost schools, the basic thrust of the Senate purpose at all times was simply this: To make it more feasible for veterans without access to low-cost schools with courses in their chosen field to go to school. We have tried in a fair and equitable fashion to help overcome the problems facing veterans in States where there are no low-tuition State-supported colleges.

The committee believes the compromise agreement achieves this goal by increasing the maximum annual amount of VA direct education loans to $2,500 and by making it easier for veterans to apply for such loans by removing the requirement that the veteran be turned down first by a private lender. It also provides a joint Federal-State program whereby, for a veteran who completes his or her program of education at a school where the tuition and fees exceed $700 per year, two-thirds of the loan amount over $700 may be cancelled—one-third through moneys paid by the State or local government and one-third by the VA on a matching basis.

This is exactly the same two-thirds formula for cancellation as was contained in the Senate-passed bill. And the tuition threshold of $700 is exactly the same. The principal differences are the degree-completion requirement and the Federal-State matching requirement.

This approach, Mr. President, makes it possible for veteran-students to pursue their education by calling upon the States to assume a fair share of the burden, and providing an equitable level of additional Federal assistance on a matching basis.

In fact, Mr. President, for the average single veteran using 36 months of GI bill entitlement to get a college degree, it provides a possibility of canceling up to $4,800 for 4 years of loans whereas the Senate-passed bill would have limited the maximum cancellation to approximately $2,800.

Title 3 of the bill covers a wide variety of matters relating to the effective and fair operation and administration of GI bill programs. This compromise agreement retains 29 Senate provisions, 18 unchanged or virtually unchanged, and 5 with some modification. Only 6 administrative provisions from the Senate bill are not included in any form in the compromise. Again, I would point out to my colleagues that the House-passed bill had only three substantive provisions concerning administrative matters.

Finally, Mr. President, the compromise agreement provides a full and fair resolution of the "WASP" issue. It sets up a new process by which the Women's Air Forces Service Pilots—the WASPS—and similarly situated groups may have their service recognized as active military service by the Secretary of Defense. If the Secretary determines, on the basis of an historical review and appropriate criteria, that the service of any such group was active military service, he can award discharges under honorable conditions; and VA benefit eligibility would automatically follow for those receiving such discharges.

In summary then, Mr. President, I can only say to my colleagues that this compromise on the GI Bill Improvement Act of 1977, as contained in H.R. 8701, as amended by the House, contains a great number of valuable provisions that need to be enacted into law now, millions of veterans will be eligible for increased assistance if we act now.

This view is shared by the Administrator of Veterans' Affairs, Max Cleland, as set forth in his letter to me today. I ask unanimous consent that that letter, which is on every Senator's desk, be printed in the RECORD at this point.

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

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF
VETERANS' AFFAIRS,
Washington, D.C., November 4, 1977.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On November 3, 1977, the House passed, by unanimous vote, a compromise amendment to H.R. 8701, the GI Bill Improvement Act of 1977. It is understood that the House-passed version of the bill will be considered by the Senate either today or tomorrow.

You will recall that earlier this year, on September 12, 1977, the House passed H.R. 8701 by a vote of 397 to 0. Subsequently, on October 19, 1977, the Senate, by a vote of 91 to 0, returned the measure to the House with amendments. Since that time, both Veterans' Affairs Committees have been negotiating the respective versions of the bill. We believe that the resulting compromise version, which has passed the House, is worthy of support.

Under the compromise, almost 1,000,000 Vietnam-era veterans who are enrolled in the current fall school term will receive a 6.6 percent cost-of-living increase. Basic monthly support rate for a single veteran will be $311. A married veteran will receive $370, and the addition of a child will boost the monthly rate to $422. It is estimated that during Fiscal Year 1978 approximately 1,760,000 veterans will benefit from this rate increase.

Additional assistance for veterans attending high tuition institutions will be provided by a simplified veteran loan program which authorizes up to $2,500 a school year in direct VA low interest loans.

The compromise version also includes for the first time a provision allowing "acceleration" of a veteran's unused entitlement which can be used to cancel a portion of the veteran's loan repayment obligation. Under this provision, for example, a veteran who borrowed $2,500 could, if he successfully completed his program of education, have up to $1,200 cancelled through matching action by the Federal Government and the appropriate state or local governmental unit.

A third major provision of the compromise bill would provide a 2-year additional entitlement for direct veteran's loans to those veterans whose 10-year "delimiting period" for use of educational benefits has expired.

While the Administration continues to be concerned about the possible distortion of what is intended to be a readjustment benefit through extension of an already generous 10-year entitlement period to 12 years, we nevertheless can support the provision in the context of the overall compromise which would provide needed benefits to Vietnam veterans during this fall term.

A fourth major provision would provide a process by which service as a member of the Women's Airforce Service Pilots (WASP's), or any other similarly situated group whose members rendered service to the Armed Forces in a capacity considered, at the time, to be civilian employment or contractual service, could be considered active duty for purposes of laws administered by the Veterans' Administration subject to certain specified conditions.

Finally, the compromise version contains a number of amendments and studies designed to improve the operation of the program and to ease some of the administrative problems experienced by both schools and the Veterans' Administration with respect to the GI Bill program.

In conclusion, we believe the compromise amendment is a reasonable one which takes into account the respective interests of both Houses and the Administration. Action, either today or tomorrow, by the Senate would help ensure these increased benefits for Vietnam-era veterans during the fall

term, rather than postponement to February or later of next year.

Thank you for your consideration of this matter.

Sincerely,

MAX CLELAND,
Administrator.

Mr. CRANSTON. Mr. President, I want to explain in summary fashion the provisions of the compromise agreement.

TITLE I

Mr. President, the provisions of title I—GI bill rate increases—would amend chapters 31, 34, 35, and 36 of title 38, United States Code, to increase the amounts of educational assistance allowances by 6.6 percent—the current estimate of the increase in the cost-of-living between October 1, 1976, the effective date of the last GI bill increase under Public Law 94–502, and October 1, 1977, the effective date of the increase provided by this title and to increase the amount of the work-study allowance to equal the amount of the federally-required minimum hourly wage.

TITLE II

Mr. President, the provisions of title II, accelerated payments and delimiting date extension, would:

First: Establish an expanded loan program and a program of accelerated educational assistance payments as follows—

Any veteran, if need could be established, would be eligible to borrow up to $2,500 per school year, presently limited to $1,500 per school year, as follows: first (a) a veteran would be required to qualify for such loan on the basis of need as defined in section 1798, as required in the Senate version of H.R. 8701 with respect to acceleration only; second (b) a veteran would not be required to have sought loans from other sources, as also required in the Senate version with respect to acceleration only; and (c) a veteran enrolled in a course not leading to a standard college degree which does not meet the 6-month requirement—not presently eligible for the VA education loan program—could, as automatically provided for in Senate version, qualify for the expanded loan program upon an exception granted by the Administrator.

When the veteran completes the program of education in which enrolled—for example, obtains the degree being pursued—he or she—subject to the accelerated program computation limitations regarding the 45 months of entitlement—will, if a full-time student, as required in the Senate version, be eligible for cancellation of up to two-thirds the amount provided for in the Senate version of the total loan under a combined Federal-State program as follows: For each dollar which the State in which the veteran was enrolled in the program of education matches up to one-third of the total loan amount, the VA will cancel a dollar of the total loan amount—up to one-third of the total loan amount. The amount of the loan against which the 66⅔/33⅓ discharge provision would apply is the amount by which tuition and fees exceed $700 per school term.

Second. Extend the period of time a veteran or eligible spouse has to utilize his or her GI bill benefits when the veteran or spouse has a mental or physical disability, not the result of his or her own misconduct, which the Administrator finds prevented the veteran or spouse from initiating or completing a course of study.

Third. Extend for 2 years the period of time a veteran or eligible spouse has to receive loans under the GI bill as follows—

A veteran or spouse enrolled on a full-time basis at the time the delimiting date passed—the coverage in the Senate version of H.R. 8701—would, to the extent that he or she had monthly loan entitlement remaining, be eligible for a VA loan of up to $2,500 during each of the 11th and 12th years provided such veteran or spouse continued in full-time training in that course until that program is completed—as outlined in section 203(b) of the Senate version. Under current law, a veteran or spouse is eligible for a VA education, section 1798, loan only to the extent he or she has entitlement—maximum of 45 months—and is within the 10-year delimiting period.

Such veteran or spouse would have to qualify on the basis of need, as provided in section 1798, but would not be required to meet the private-sector loan "turndown rule." In addition, a veteran or spouse enrolled in a course not leading to a standard college degree and not meeting the 6-month requirement—not presently eligible for the VA loan program—could qualify for the expanded loan program upon an exception granted by the Administrator. All the provisions of the liberalized loan program would be applicable to loan entitlement in the 11th and 12th years.

TITLE III

Mr. President, the major provisions of title III—other education and training amendments—would accomplish the following:

First. Require the Administrator, in the promulgation or issuance of any rule, regulation, guideline, or other published interpretation of title 38, or any amendment thereto, to provide a citation or citations to the particular section of statutory law or other legal authority upon which it is based.

Second. Amend section 1663 of title 38 to provide eligible veterans with more extensive VA educational and vocational counseling services and require the Administrator to take reasonable steps—including notification where feasible—to acquaint all eligible veterans with the availability and advantages of such counseling.

Third. Eliminate the requirement that the Department of Defense file with the Congress progress reports with respect to the implementation of the predischarge education program (PREP).

Fourth. Increase by 5 percent the amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment.

Fifth. Require State approving agencies to report to the Administrator on September 30, 1978 and periodically—but not less than annually—as determined by the Administrator—thereafter on their specific activities, approval, and disapprovals during the preceding year.

Sixth. Increase by $2 and $5—from $5 and $6 to $7 and $11—the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions, the higher rate for processing of papers for veterans in receipt of advance payments.

Seventh. Require the VA to conduct an independent study into the extent to which veterans and eligible persons use their GI bill entitlement, complete their programs of education, achieve job satisfaction, and experience readjustment problems, and authorize the appropriation of $2 million for the conduct of such study.

Eighth. Prohibit the Administrator from attempting to collect any administratively determined institutional liability for overpayments under section 1785 of title 38, United States Code, by offsetting the amount of reporting fees to which an institution may be entitled under section 1784(b) unless such institution has not contested the liability or the liability has been upheld by a final decree of a court of appropriate jurisdiction.

Ninth. Specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, United States Code, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

Tenth. Reduce the number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits—where classroom and theoretical instruction predominates, the required instructional hours are reduced from 22 to 18; where classroom and theoretical instruction does not predominate, from 27 to 22 hours.

Eleventh. Limit to 5 the number of hours of supervised study which nonaccredited institutional trade or technical courses are allowed to count in determining compliance with the required clock-hours provisions—30 and 25, respectively for theoretical and nontheoretical instruction.

Twelfth. Authorize the Administrator to waive the 2-year rule in those instances involving branch campuses or extensions of institutions of higher learning where the Administrator determines—pursuant to prescribed regulations—that the waiver would be in the interest of the eligible veteran and the Federal Government and to provide the Administrator with the authority to waive certain provisions in qualifying for an exemption under clause 6 of subsection (b) of section 1789 relating to certain schools under contract with the Department of Defense.

Thirteenth. Regarding the "85–15" rule—

Exempt any institution with an enrollment of veterans which comprises 35 percent or less, or such other per centum as the Administrator prescribes in regu-

lations of the total student enrollment—with main campuses and extensions computed separately—from the requirement of course-by-course computation of the rule, except that, where the Administrator has cause to believe that the GI bill enrollment in particular courses may exceed 85 percent of the total course enrollment, the Administrator can require computation for the particular course and enforce the rule;

Require the Administrator, in consultation with appropriate departments and agencies, to conduct a study and submit to the Congress, by September 30, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agency and the problems of such institutions including such a computation of those students in receipt of grants from any Federal department or agency other than the Veterans' Administration; and

Make inapplicable, until the expiration of 6 months after the date of filing of such report and until such time thereafter as the Administrator shall determine that there is an adequate and feasible system for making such computations and that such computations are desirable and necessary, the provisions contained in the rule requiring the inclusion of the number of students in receipt of Federal grants when determining compliance by educational institutions with the rule.

Fourteenth. Regarding the satisfactory-progress rule—

Provide the Administrator the authority, in accordance with prescribed regulations, to approve a length of time for course completion exceeding the approved length of the course as certified to the VA by the educational institution.

Suspend, during the period of time required to make the study which I am about to describe, the implementation of the satisfactory-progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the provisions of section 1776(b)(6) and (7) of title 38;

Require the Administrator, in appropriate instances, to bring to the attention of the Council on Postsecondary Accreditation—or other appropriate accrediting or licensing bodies—any course catalogs or bulletins submitted to the Administrator which the Administrator believes may not be in compliance with the standards of the accrediting or licensing body; and

Mandate the Administrator, in consultation with appropriate bodies, persons, officials, departments, and agencies to conduct a study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI bill; require that such study include the need for legislative and administrative action in regard to certain relevant provisions—including the "seat-time" requirement—of title 38, and regulations prescribed thereunder; require that such study be submitted to the President and the Congress by September 30, 1978, except that that portion of the report in regard to satisfactory progress shall be submitted on or before September 30, 1978; and authorize $1 million to be appropriated to the Veterans' Administration for the conduct of the study.

Fifteenth. Provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502—relating to negotiability of GI bill assistance checks subject to powers-of-attorney—the institution has incurred an undue hardship.

Sixteenth. Provide that any action to suspend or terminate GI bill assistance of a veteran must be based upon evidence of the veteran's ineligibility; require the Administrator to give the veteran concurrent written notice whenever the Administrator suspends or terminates such assistance; and require the Administrator to give written notice to the veteran that he is entitled to a statement of the reasons for such termination or suspension and an opportunity to be heard.

Seventeenth. Direct the Administrator, in consultation with the HEW Commissioner of Rehabilitation Services, to conduct a study and to submit a report to the President and Congress, due March 1, 1978, in regard to chapter 31 of title 38, the veterans vocational rehabilitation program, including the Administrator's recommendations for administrative or legislative changes.

Eighteenth. Require the chairman of the Civil Service Commission to submit to the President and the Congress, not later than 6 months after enactment, a report on the need for continuation after June 30, 1978, of the authority for veterans readjustment appointments.

Nineteenth. Make technical amendments to section 101(29) and section 2007(c) of title 38, United States Code.

Twentieth. Authorize the Administrator to conduct, pursuant to an interagency agreement with HEW transferring such program, including a fund transfer, the programs carried out under section 420 of the Higher Education Act of 1965 as amended—the veterans cost of instruction (VCI) program—and in the event such transfer occurs, provide for the recodification of such section at section 246 of title 38 and the supercession of section 420.

Twenty-first. Require the Administrator to conduct a study into specific means by which chapter 37 of title 38—or amendments thereto—can be used to aid or encourage present and prospective veteran homeowners to install solar heating, solar cooling, and solar heating and cooling and to apply resident energy conservation measures.

TITLE IV

Mr. President, the provisions of title IV Women's Air Forces Service Pilots—provide a process by which service as a member of the Women's Air Forces Service Pilots, or of any other similarly situated group whose members rendered service to the Armed Forces in a capacity considered, at the time of such service, to be civilian employment or contractual service, shall be considered active duty for purposes of all laws administered by the VA subject to specified conditions, as follows—for the service of the members of any such group to be considered active duty, the Secretary of Defense, pursuant to regulations, after a full review of the historical record regarding each such group, must determine on the basis of judicial and other appropriate precedent, whether or not the service of each such group constituted active military service; and, with respect to the members of groups as to which an affirmative determination is made, the Secretary must issue a discharge under honorable conditions designating the date on which such service terminated to each member the nature and duration of whose service warrants such a discharge. In making the determination with respect to any such group described, the Secretary of Defense may take into consideration the extent to which an affirmative determination is training and acquired a military capability or the service performed by such group was critical to the success of a military mission; the members of such group were subject to military justice, discipline, and control; the members of such group were permitted to resign; the members of such group were susceptible to assignment for duty in a combat zone; and the members of such group had reasonable expectations that their service would be considered to be active military service.

The compromise further provides that no benefits may be paid for any period prior to the date of enactment; and any person who is entitled to Federal employees' compensation based on the same period of service on which entitlement to veterans' compensation or pension would be based, as a result of the implementation of this title, must elect which benefit he or she will receive.

TITLE V

Mr. President, the provisions of title V—effective dates—would generally establish the effective date of the act as the first day of the month beginning 60 days after the date of enactment. However, the effective date of the allowance and reporting fee increases is October 1, 1977, and of the accelerated payment provision, sections 201 and 202, is January 1, 1978. Section 203, in regard to extension of the delimiting period for certain veterans is effective retroactively to May 31, 1976. Sections relating to studies, technical amendments, and administrative matters are generally effective upon enactment.

Mr. President, in order that all Senators and the public may fully understand the various agreements reached in arriving at the compromise measure, I ask unanimous consent that there be printed in the RECORD at this point a document, prepared with the House Committee in lieu of a joint explanatory statement accompanying a conference report, entitled, "H.R. 8701—Joint Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement."

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

H.R. 8701—JOINT EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—GI BILL RATE INCREASES

The House bill and the Senate amendment were designed to amend chapters 31, 34, 35, and 36 of title 38, United States Code, to increase the amounts of education assistance allowances by 6.6 percent.

The compromise agreement contains the Senate provision.

Sec. 105. Veteran-Student Services—

The Senate amendment would increase the amount of the hourly work-study allowance to equal the amount of the Federally-required minimum hourly wage and would provide that such work-study hourly allowance be increased whenever such minimum wage is increased.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

TITLE II—ACCELERATED PAYMENT AND DELIMITING PERIOD EXTENSION

Sec. 201. Accelerated Payment and Education Loan Eligibility—

The Senate amendment would establish a program of accelerated educational assistance payments, thus making it possible for certain veterans and eligible persons attending a higher cost program of education to receive a greater amount of GI Bill educational assistance. Under the Senate provision, a veteran otherwise eligible, would be entitled to accelerate two-thirds of the amount by which his or her tuition and fees for any school term exceed $700. In addition, the Senate amendment would establish an education loan program to be used in conjunction with the accelerated benefit program. Only those veterans eligible for the loan on the basis of need would be eligible for the accelerated program.

The House bill contained no comparable provision.

The compromise agreement would provide a program for assisting certain veterans attending high-cost programs of education as follows:

(1) any veteran, subject to other limitations, would be eligible to borrow up to $2500 per school year (presently limited to $1500 per school year), as follows:

(a) a veteran would be required to qualify for such loan on the basis of need as defined in section 1798;

(b) a veteran would not be required to have sought loans from other sources;

(c) a veteran enrolled in a course not leading to a standard college degree and of less than 6 months duration (not presently eligible for the VA education loan program) could (as automatically provided for in Senate version) qualify for the expanded loan program upon an exception granted by the Administrator. The Committees expect the Administrator to exercise with care the waiver authority provided under this program in order to assure the appropriate payment of GI Bill moneys.

(2) when the veteran completes the program of education in which enrolled (for example, obtains the degree he is seeking) he or she—subject to the accelerated program computation limitations regarding the 45 months of entitlement—will, if a full-time student, be eligible—under a Federal-State program—for a loan cancellation of up to ⅔ of the amount by which tuition and fees exceed $700 per school term or ⅔ of the amount of the loan for the year involved, whichever is less. Within those limits, the VA will cancel one dollar of the loan amount for each dollar which the State or local governmental unit (or both) in which the school is located repays.

Sec. 203. Delimiting Period Extension—

The Senate amendment would:

(a) extend the period of time a veteran has to utilize his or her GI Bill benefits when the veteran has a mental or physical disability or impairment, not the result of his or her own misconduct, which the Administrator finds prevented the veterans from initiating or completing a course of study; and

(b) extend for two years, in certain instances, the length of time a veteran or eligible spouse who is enrolled in training as a full-time student (and certain veterans in training as a full-time student) (and certain veterans in part-time training) at the time his or her delimiting date passes and provide that during the eleventh year and twelfth year of eligibility such veteran or eligible person shall be paid 50 percent and 33 percent, respectively, of the amount of normal entitlement rate.

The House bill contained no comparable provision.

The compromise agreement would:

(a) include the Senate provision with modifications deleting "or impairment" and applying the same provision to eligible spouses under chapter 35 of title 38. The Committees expect that the definition of physical or mental disability will be no less stringent than the definition of disability contained in section 601(1) of title 38.

(b) provide that a veteran or eligible spouse enrolled on a full-time basis at the time the delimiting date passed would (to the extent he/she had monthly loan entitlement remaining) be eligible for a VA loan of up to $2500 during each of the 11th and 12th years provided such veteran or eligible spouse continued in full-time training in that course until that program is completed (generally as outlined in section 203 (b) of the Senate version).

Such veteran or eligible spouse would have to qualify on the basis of need, as provided in section 1798, but would not be required to meet the "turndown rule". In addition, a veteran enrolled in a course not leading to a standard college degree and not meeting the 6-month requirement (not presently eligible for the VA loan program) could qualify for the expanded loan program upon an exception granted by the Administrator. All the provisions of the liberalized loan program would be applicable to loan entitlement in the 11th and 12th years. (Under current law, a veteran is eligible for a VA education (section 1798) loan only to the extent he or she has entitlement (maximum of 45 months) and is within the 10-year delimiting period.)

TITLE III—OTHER EDUCATION AND TRAINING AMENDMENTS

Sec. 301. Citation of authority—

The Senate amendment would require the Administrator, in the promulgation or issuance of any rule, regulation, guideline, or other published interpretation of title 38, or any amendment thereto, to provide a citation or citations to the particular section of statutory law or other legal authority upon which it is based.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Sec. 302. Counseling Services and Predischarge Education Program Report Elimination—

The Senate amendment would amend section 1663 of title 38 to provide eligible veterans with more extensive VA educational counseling services and require the Administrator to carry out an effective outreach program to acquaint all eligible veterans with the availability and advantages of such counseling.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision as modified to make specific that the Administrator, where appropriate, provide counseling in regard to employment opportunities and take reasonable steps to notify individual veterans of the availability and advantages of counseling.

PREP reports

The Senate amendment would eliminate the requirement that the Department of Defense file with the Congress progress reports with respect to the implementation of the Predischarge Education Program.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Sec. 303. State Approving Agency Reimbursement and Report—

The House bill would increase by 5 percent the amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI Bill enrollment.

The Senate amendment would increase such reimbursement by 10 percent.

The compromise agreement contains the House provision.

The Senate amendment would require State approving agencies to report annually to the Administrator on their specific activities, approvals, and disapprovals during the preceding year.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provisions as modified to require the periodic submission of these reports by State approving agencies not less often than annually as determined by the Administrator.

Sec. 304. Correspondence-Residence Courses, Reporting Fees, Institutional Attendance Requirements, and Vocational Course Measurement—

Correspondence-residence courses

The Senate amendment would authorize the approval by the Administrator of a combined correspondence-residence course not meeting the requirement that the correspondence portion normally take at least 6 months to complete if the Administrator finds—based on evidence submitted by the school—that there is a reasonable relationship between the charge for each segment of the course (including the cost to the institution for providing each segment) and the total charge for such course.

The House bill contained no comparable provision.

The compromise agreement does not contain the Senate provision.

Advance payment

The Senate amendment would require the Administrator to include, as part of the veteran's application form for advance pay and with any advance payment, a notice to the veteran, in clear and simple language, of the period of time between the date of advance payment and the scheduled date of the first monthly benefit payment.

The House bill contained no comparable provision.

The compromise agreement does not contain the Senate provision. The Committees expect the Administrator to take reasonable steps to inform eligible veterans of the advance pay program and of the period of time which will elapse between the date of advance payment and the scheduled date of the first monthly benefit payment.

Reporting fees

The Senate amendment would increase by $5 and $9 (from $5 and $6 to $10 and $15) the amount of reporting fees paid to reimburse educational institutions for costs incurred in filing with the Veterans' Administration required reports on veterans and eligible persons enrolled in such institutions—the higher rate is paid for each veteran who participates in the advance payment program.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision as modified to provide increases in reporting fees of $2 and $5—from $5 and $6 to $7 and $11, respectively.

Satisfactory completion payment

The Senate amendment would require the payment of $5 to educational institutions for each full-time veteran or eligible person enrolled therein who satisfactorily completes the school term.

The House bill contained no comparable provision.

The compromise agreement does not contain the Senate provision; instead, it requires the VA to conduct a comprehensive longitudinal study of, among other things, the extent to which veterans have used their entitlements under the Post-Korean-Conflict GI Bill and authorizes the appropriation of $2 million for the conduct of such study. The report is to be submitted by September 30, 1979.

Reporting fees offset

The Senate amendment would prohibit the Administrator from attempting to collect any administratively determined institutional liability for overpayments under section 1785 of title 38, United States Code, by offsetting the amount of reporting fees to which an institution may be entitled under section 1784(b).

The House bill contained no comparable provision.

The compromise agreement includes the Senate provision as modified to permit such offset where an educational institution is not contesting liability or the liability was upheld by a court of appropriate jurisdiction.

Attendance records

The Senate amendment would specify that under no circumstances shall section 1785—which pertains to institutional liability for veteran overpayments—or any other provision of title 38, United States Code, be construed as requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision. The Committees emphasize that this provision does not diminish the responsibility of educational institutions to report without delay the enrollment, interruption, and termination of the education of each eligible veteran and eligible person enrolled therein.

Voc-Tech clock-hours

The Senate amendment would reduce the number of clock hours which an accredited institutional trade or technical course must offer to assure that the veterans enrolled therein are eligible for full-time GI bill benefits—where classroom and theoretical instruction predominate, the required instructional hours are reduced from 22 to 18 and, where classroom and theoretical instruction does not predominate, from 27 to 22 hours.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Voc-Tech supervised study

The Senate amendment would limit to 5 the number of hours of supervised study which non-accredited institutional trade or technical courses are allowed to count in determining compliance with the required clock-hours provisions (30 and 25, respectively for theoretical and non-theoretical instruction).

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Two-year rule—Vocational schools

The Senate amendment would exempt courses with vocational objectives from the application of the rule in those instances where the Administrator determines (i) that the institution offering such courses has been in existence for 2 years or more and has demonstrated its effectiveness in achieving the completion of its courses by students and the employment of persons who completed courses offered by institutions in occupations for which such persons were trained, and (ii) after consultation with the Secretary of Labor, that there is a clear need to train persons for employment in such vocational objective in terms of national priorities.

The House bill contained no comparable provision.

The compromise agreement does not contain the Senate provision.

Civilian employees

The House bill contained a provision to extend exemption from the two-year rule to certain courses offered by educational institutions pursuant to a contract with the Department of Defense when such courses are available to civilian military personnel.

The Senate amendment contained no similar provision.

The compromise agreement contains the House provision, as modified. Under current law, certain courses under contract with the Department of Defense are exempted from the two-year rule. To qualify for such exemption such courses can be given on or immediately adjacent to a military base, be approved by the State approving agency of the State in which the base is located, and be available only to active duty military personnel and/or their dependents. Under the House provision, civilian employees would also have been permitted to enroll in such courses without affecting such course's eligibility for a two-year rule exemption. The House provision was modified by deleting the special reference to civilian employees and, instead, providing the Administrator with the authority to waive all or any of the above requirements in order for such a contract course to be eligible for such exemption of the two-year rule.

Two-year rule waiver, branches and extensions

The House bill and the Senate amendment contained a provision to provide, in certain instances, a waiver of the two-year rule for certain branches and extensions of institutions of higher learning.

The compromise agreement contains such a provision.

85–15 rule—35 percent waiver

The Senate amendment would exempt any institution with an enrollment of veterans which comprises 35 percent or less of the total student enrollment (with main campuses and extensions computed separately) from the requirement of course-by-course computation of the rule, except that, where the Administrator has cause to believe that the GI Bill enrollment in particular courses exceeds 85 percent of the total course enrollment, the Administrator can require computation for the particular course and enforce the rule.

The House bill contained no comparable provision.

The compromise agreement includes the provision of the Senate amendment as modified to provide the Administrator with authority to establish—pursuant to prescribed regulations—a lower percent for exemption from the 85–15 rule: The Committees believe that it would generally be desirable for the Administrator to publish information periodically to show how the authorized waivers of the 85–15 rule and two-year rule are being applied.

85–15 rule—Overseas residential courses

The Senate amendment would make the 85–15 rule inapplicable to overseas residential courses.

The House bill contained no comparable provision.

The compromise agreement does not contain the Senate provision.

85–15 rule—Federal grants

The House bill contained a provision eliminating from the 85–15 rule computations of those students in receipt of Federal grants other than from the Veterans' Administration.

The Senate amendment would require the Administrator, in consultation with the Commissioner of Education, to conduct a study and submit to the Congress, by August 1, 1978, a report examining the need for including in the 85–15 computation those students in receipt of grants from any Federal department or agency and the problems of such institutions including such a computation of those students in receipt of grants from any Federal department or agency other than the Veterans' Administration, and make inapplicable, until the expiration of 6 months after the date of the filing of such report, the provisions contained in the rule requiring the inclusion of the number of students in receipt of Federal grants when determining compliance with the rule by educational institutions.

The compromise agreement contains the Senate provision as modified to provide that the suspension of the inclusion of such Federal grants shall continue until such time as the Administrator determines that there is an adequate and feasible system for making such computations and to eliminate specific reference of agencies and departments with whom the Administrator must consult during the conduct of the study.

Study—Education approval process

The Senate amendment would mandate the Administrator, in consultation with the Commissioner of Education (HEW), COPA, State approving agencies, and other appropriate bodies, persons, and officials to conduct a study of specific methods of improving the process by which postsecondary education institutions and courses at such institutions are and continue to be approved for the purposes of the GI Bill; require that such study include the need for legislative and administrative action in regard to certain relevant provisions including the "seat-time" requirement and the satisfactory progress requirements of section 1674 and 1724 of title 38, as amended by section 206 and 307, respectively, of Public Law 94–502, and regulations precribed thereunder; require that the report of such study be submitted to the President and Congress by August 1, 1978; and direct the Administrator, in accordance with applicable law and procedure, to make available from funds appropriated to the Veterans' Administration such sums as are necessary (but not more than $500,000) for the conduct of the study.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provisions as modified to strike specific reference to certain departments, agencies, officials, and bodies with whom (or which) the Administrator is required to consult; to require the submission of that portion of the report concerning satisfactory progress by September 30, 1978 and the balance of the report on September 30, 1979, and would authorize the appropriation of $1,000,000 for the conduct of the study.

Satisfactory progress provisions

The Senate amendment would suspend, during the period of time required to make

the study described below, the implementation of the satisfactory-progress amendments contained in sections 206 and 307 of Public Law 94–502 for any accredited educational institutions submitting to the Administrator catalogs or bulletins which the Administrator determines are in compliance with the provisions of section 1776(b)(6) and (7) of title 38 and require the Administrator, in appropriate instances, to bring to the attention of the Council on Postsecondary Accreditation (COPA)—or other appropriate accrediting or licensing bodies—any course catalogs or bulletins submitted to the Administrator which the Administrator believes may not be in compliance with the standards of the accrediting or licensing body.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provisions.

Section 701 relief

The Senate amendment would provide the Administrator with the authority to provide equitable relief to certain educational institutions where the Administrator finds that, as a result of enactment of section 701 of Public Law 94–502 (relating to negotiability of GI Bill assistance checks subject to powers-of-attorney), the institution has incurred an undue hardship.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Advisory committee

The Senate amendment would require the Education Advisory Council—established by section 1792 of title 38—to meet at least semiannually; and require the Administrator to consult with the Council on a regular basis.

The House bill contained no comparable provision.

The compromise agreement does not include the Senate provision.

Section 306. Termination of Assistance Requirements—

The Senate amendment would provide that any action to terminate GI Bill assistance must be based upon clear evidence in the possession of the Administrator that the veteran is not, or was not, eligible for such assistance; require the Administrator to give the veteran concurrent written notice whenever the Administrator suspends or terminates such assistance; and require the Administrator to give written notice to the veteran that he/she is entitled to a statement of the reasons for such termination or suspension and an opportunity to be heard.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision as modified to strike "clear" and "in the Administrator's possession".

Section 307. Vocational Rehabilitation Study—

The Senate amendment would direct the Administrator, in consultation with the HEW Commissioner of Rehabilitation Services, to conduct a study and to submit a report to the President and Congress, due March 1, 1978, in regard to chapter 31 of title 38, the Veterans Vocational Rehabilitation Program, including the Administrator's recommendations for administrative or legislative changes.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Section 308. Veterans Readjustment Appointments Report—

The Senate amendment would require the Chairman of the Civil Service Commission to submit to the President and the Congress, not later than 6 months after enactment, a report on the need for continuation after June 30, 1978, of the authority for veterans readjustment appointments.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Section 309. Technical Amendment—

The Senate amendment would make technical amendments to section 101(29) and section 2007(c) of title 38, United States Code.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provisions.

Section 310. Veterans Cost-of-Instruction Transfer Authority.—The Senate amendment would authorize the Administrator to conduct, pursuant to either an interagency agreement with HEW or a delegation of authority by that Department (including a fund transfer), the programs carried out under section 420 of the Higher Education Act of 1965 as amended—the Veterans Cost-of-Instruction (VCI) program.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision as modified to delete reference to "delegation" and to provide for recodification of such section at section 246 of title 38 in the event such transfer occurs (and supercession of section 420).

Section 311. Housing Solar Energy and Weatherization Study—The Senate amendment would entitle eligible veterans to an additional 2,000 of home loan guarantee (and $3,800 in direct loans) to install in their homes solar heating, solar heating and cooling, or combined solar heating and cooling or to improve their homes with residential energy conservation measures.

The House bill contained no comparable provision.

The compromise agreement deletes the guaranty entitlement provisions and in lieu thereof mandates the conduct of a study to determine the most effective specific methods of using the programs carried out under, or amending the provision of, chapter 37 of title 38 in order to aid and encourage present and prospective veteran homeowners to install in their homes solar heating, solar heating and cooling, or combined solar heating and cooling and to apply residential energy conservation measures. The Committees expect the VA, in making the study, to consider the provisions in section 311 of H.R. 8701 as amended and passed by the Senate on October 19, 1977.

The Senate amendment would extend eligibility for VA benefits to certain members of the WASPs.

The House bill contained no comparable provision.

The compromise agreement would make it possible for certain members of WASPs (and similarly situated groups of civilians who rendered what has previously been considered civilian or contractual service to the Armed Forces) to receive discharges from active military service and, as a consequence, become eligible for VA benefits if the Secretary of Defense determines whether the service of such groups was active-duty service and, in the cases of affirmative determinations, issues discharges under honorable conditions to those members the duration and nature of whose service warrant such discharge.

TITLE V—EFFECTIVE DATES

The House bill contained an October 1, 1977, effective date.

The Senate amendment established the effective date of the Act as the first day of the month beginning 60 days after the date of enactment. However, the effective date of the allowance and reporting fee increases is October 1, 1977, and of the accelerated payment provision (sections 201 and 202) is January 1, 1978. Section 203, in regard to extension of the delimiting period for certain veterans is effective retroactively to May 31, 1976. Sections relating to studies, technical amendments, and administrative matters are generally effective upon enactment.

The compromise amendment follows generally the Senate effective dates.

CONCLUSION

Mr. CRANSTON. Mr. President, as all of us are well aware, neither the Senate nor the House can have its way entirely on everything when the other body expresses its clear disagreement. In such situations we achieve as much as possible through negotiation and compromise. In this instance, I think that the committee has been remarkably successful. Further delay and disagreement would serve no good purpose and could be very harmful to the more than 1 million veterans now enrolled in training. It would also deny the possible benefit of the newly liberalized loan program to the many veterans whose delimiting date has expired, as well as to those present 1 million trainees now in school who may need a VA loan or have one and need a higher loan amount.

In closing, I want to express my gratitude, and pay tribute, to the chairman of the Subcommittee on Education and Training of the House Committee on Veterans' Affairs (Mr. TEAGUE) and the chairman of the committee (Mr. ROBERTS), as well as its ranking minority member (Mr. HAMMERSCHMIDT), for their cooperative spirit and openmindedness in fashioning this compromise agreement. I am also very grateful to my distinguished colleagues, the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Vermont (Mr. STAFFORD), and the ranking minority member of the Subcommittee on Health and Readjustment, the Senator from South Carolina (Mr. THURMOND) for their consistently excellent work and fine cooperation in veterans' matters in general and with regard to this agreement in particular. I also wish to thank the Senator from New Hampshire (Mr. DURKIN), for his cooperation in our efforts to work out this legislation and move forward today.

In addition, I would like to congratulate several members of the House committee staff whose expertise and hard work made the development of this measure possible—Mack Fleming, Frank Stover, and John Holden—as well as the members of our committee staff who participated in this effort—Jack Wickes, Jon Steinberg, Ed Scott, Garner Shriver, Gary Craword, and Harold Carter.

Finally, Mr. President, I would also like to draw special attention to the efforts of my good and constant friend from the House Committee on Veterans' Affairs, its former chairman and now the chairman of its Subcommittee on Education and Training, OLIN (TIGER) TEAGUE. For the 9 years that I have worked with Chairman TEAGUE on matters concerning the GI bill, I have found him to be very concerned with the operation of that program and the people it is intended to serve.

Honest people can honestly have different opinions, and the two of us have differed from time to time. But we have tried, I think successfully, to resolve our differences. Whenever the Senate has approached "TIGER" TEAGUE on GI bill matters, he has been interested in examining and discussing changes designed to improve the program. Most of those changes have become law—outreach offorts, tutorial assistance, work-study assistance, advance payment, the predischarge education program, the vet-rep program, periodic evaluations, direct loans, and now, loan forgiveness and extension of the delimiting period for certain purposes. In each of these areas the Senate went to the House committee which had no comparable provision in its bill, and the House was willing to look objectively at our views and evaluate our provisions on the merits.

"TIGER" TEAGUE has done that again, and he should be praised for his fairness and his dedication to make the GI bill as effective as possible in serving the readjustment needs of those who served during the long and divisive Vietnam era. I salute him.

Let me not fail to note as well the very excellent work done by Chairman ROBERTS on this measure and so many others, such as the pension bill and the special-pay legislation we sent to the President yesterday and today, respectively. RAY ROBERTS has been willing on all legislation, including the pending measure, to compromise, accommodate, and work together. I thank him for his leadership and dedication.

These reasons, I think, present the case clearly and succinctly. I urge adoption of the compromise agreement.

Mr. DURKIN. Mr. President, the bill which is before us today is a so-called compromise between my bill S. 457, which passed the Senate 3 weeks ago, and H.R. 8701, which was adopted by the House almost 1 month ago. An agreement on these bills was reached without the benefit of an open discussion of the proposals contained in the Senate bill. We all talk a lot about government in the sunshine around here, yet the House Veterans' Committee failed to ask for a conference on these bills—refused to sit down and talk with the Senate and to deal with issues which are of great importance to the Vietnam veteran. Instead the House continues to show insensitivity to the needs of the veteran who served his country in the Vietnam era, ignoring the fact that the unemployment rate is 10 percent higher for these veterans as compared to non-veterans.

Since I entered this body 2 years ago, I have fought to improve the veteran's education program to fulfill the promises we made to the Vietnam veteran. Last year the Senate passed a provision, which was identical to that contained in this year's bill, to extend the delimiting period to allow full-time veteran students to complete their programs of education.

This made sense then and makes sense now. The House failed to even take a rollcall vote on the proposal. No conference was formed and we were forced to accept the House position or hold up the cost-of-living increase for those in school on the GI bill. We are faced with a similar situation today.

Mr. President, the Senate-passed GI Bill Improvements Act also contained a provision which was of particular importance to the Northeast and Midwest where veterans are currently discriminated against because institutions with low cost tuition are generally not available to them. Our bill would have allowed veterans in high cost institutions to accelerate their education benefits, that is, to use their benefits over a shorter period of time so that they could better afford to go to the schools available in their State.

Instead of correcting the inequities in the system, the compromise bill perpetuates them. Under the House agreed-upon proposal, a veteran will be eligible to borrow up to $2,500 per year from the Veterans' Administration. When the veteran completes his program of education the Federal Government can discharge up to one-third of the loan, provided, and here's the Catch-22, the State discharges an equal portion of the loan. Again, a veteran who served the Federal Government, may be penalized depending upon the State he lives in.

We all know the fiscal situation most States are faced with today. If any State is unable to appropriate money for this program the veteran in the State could have no portion of the loan discharged.

Mr. President, as I stated earlier, we are faced with a practical situation which is not dissimilar to the one we faced on the last day of the 94th Congress, since this bill contains, among other important provisions, a 6.6 percent cost-of-living increase for veterans in school under the GI bill. I therefore reluctantly will not prevent Senate action now on this bill because to do so would postpone any increase in benefits until next year for all those who need it most.

Mr. STAFFORD. Mr. President, members of our Senate Committee on Veterans' Affairs, the staff of the committee and members of the House Committee on Veterans' Affairs and staff have worked long and hard in bringing to this session of the Congress a workable and improved bill to improve educational benefits for our veterans. It was only a short time ago, in fact, 16 days ago that the Senate passed a bill, S. 457, which contained many differences from the GI bill passed earlier by the House of Representatives.

In negotiations it was very clear that the differences between the two bodies were wide, with firm positions being taken by both sides of the Capitol. The compromise that has been hammered out and which has passed the House during the proceedings of November 3, 1977, represents a fair and equitable compromise and in the judgment of the large majority of our committee, a great improvement over present GI educational benefits. It does not contain all of the improvements of the Senate passed bill, but is in our judgment a reasonable compromise which respects the positions taken by both the House and the Senate and is approved by the Veterans' Administration.

I would point out that action taken now by the Senate would make the increased benefits available for Vietnam-era veterans during the fall term. It would be much better to act now than to wait until next February or later.

The amended bill before us today provides needed cost of living increases of 6.6 percent for the approximately one million Vietnam era veterans currently enrolled in the present fall school term. The increase will be effective as of October 1, 1977. The bill also provides for the Senate adopted increase of the work-study allowance to equal the amount of the federally required minimum hourly wage.

The bill now contains provisions that permit veterans attending high tuition schools to accelerate their entitlement by receiving Government loans for the excess tuition. Upon completion of the student's educational goal, two-thirds of the loan would be forgiven. The amount of the loan discharged would be shared jointly by the State and Federal Government. If a veteran, for example, borrowed $2,500, if successfully completing his program of education, he could have up to $1,200 canceled through matching action by the Federal Government and the appropriate state or local governmental unit.

Another improvement over current law would provide a 2-year additional entitlement for direct veteran's loans to those veterans whose 10-year "delimiting period" for use of educational benefits has expired.

Most of the provisions of the Senate bill passed on October 19 relating to simplifying the administrative burdens upon educational institutions have been retained in this compromise.

The measure before us will increase the administrative reporting fees for educational institutions from $5 per student per year or $6 in those cases where the school handles the advance pay, to $7 and $11, respectively. It also would increase by 5 percent the amount of money State approving agencies are reimbursed for expenses incurred in approving educational institutions for purposes of GI bill enrollment.

Last Congress and again this year the Senate voted in favor of full recognition of members of the Women's Air Force Service Pilots during World War II—WASPs—for eligibility for VA benefits. The bill now before us contains provisions that will permit service in the Womens Air Force Service Pilots and other similarly situated groups to be considered active duty for VA benefits if the Secretary of Defense determines that such service constitutes active military service and issues an honorable discharge for such service.

While our committee does not feel the compromise is nearly as good as the bill passed by the Senate, we believe it is a vast improvement over current law pertaining to veterans' educational benefits and many of the provisions are needed by veterans, educational institutions and the Veterans' Administration. We urge your support for the compromise.

Mr. THURMOND. Mr. President, I wish to express my full support for the

compromise agreement on H.R. 8701, the GI Bill Improvement Act of 1977. This act, which is the product of considerable industry and negotiation on the part of the House and Senate Veterans' Affairs Committees, is a realistic response to the needs of the veterans in training under the GI bill education program.

H.R. 8701 provides for a needed 6.6 percent cost-of-living increase for veterans currently in training under the GI bill. Additionally, the compromise agreement provides for a full extension of the delimiting period for veterans who could not start or complete a program of education under the GI bill because of a mental or physical disability not the result of the person's own misconduct.

The compromise agreement also will increase the maximum amount of VA direct education loans from $1,500 to $2,500 and will make it easier for veterans to obtain such loans by the elimination of the turndown requirement from a private lender.

Mr. President, the compromise agreement also contains numerous administrative provisions designed to alleviate the burdensome reporting requirements which previous GI bills have increasingly imposed upon educational institutions participating under the program. I am also pleased over the resolution of the WASP issue which H.R. 8701 proposes to make. Title III of the bill simply requires recognition of these groups for active duty military purposes by the Department of Defense. Upon receipt of discharges under honorable conditions, members of the WASP's and similar groups will be entitled to VA benefits.

Finally, H.R. 8701 expands existing provisions of the GI bill program by providing for a joint Federal-State program whereby certain eligible veterans in higher cost programs of education who have participated under the GI loan program may have two-thirds of the loan amount over $700 canceled. This latter program is conditioned upon a matching program enacted by participating States which agree to share in the cost of educating veterans under this new scheme. The Senate Veterans' Affairs Committee feels that this new program goes far in vindicating the Senate's position on acceleration. Moreover, the compromise version of the acceleration provision will tend to serve as a measure of a State's commitment to the readjustment needs of its own veterans.

Mr. President, I am pleased with the compromise presented by H.R. 8701. Under this program, all veterans are entitled to receive the same amount of money. Opposition to the proposals adopted by the Senate would base the GI bill benefits on the cost of tuition. Such an approach is patently discriminatory and has been consistently rejected by the Senate in the past.

I fully support H.R. 8701 and urge my colleagues to do likewise.

Mr. JAVITS. Mr. President, this is not a conference report. This is an amendment put in by the House and sent back to us. Is that correct?

Mr. CRANSTON. That is correct.

Mr. JAVITS. The House has now gone home and have said, "Take it or leave it." Is that true?

Mr. CRANSTON. We can do it in January, February, or March if the Senator wanted to delay the increase of 6.6 percent.

Mr. JAVITS. I understand that, but we can make the 6.6-percent increase retroactive. The point is that nothing whatever, as I see it, was done about what we did here, which was to provide that there would be an opportunity to get out of the accelerated payment, so-called, one-third of a veterans' tuition above $700. All the House did was to substitute a State-Federal program out of which the States have the privilege of paying one-third. Do we have any idea what that amounts to or how many it will affect, or what States are called upon to do?

Mr. CRANSTON. If the State decides to pay its fair share it will affect just as many veterans as the original Senate-passed version. It is totally inaccurate to say we have done nothing. We have done quite a bit, as I have just explained.

Mr. JAVITS. What does the Senator figure we have done if all we have done is to ask the States to pay a piece of this?

Mr. CRANSTON. There is outright entitlement for a loan up to $2,500 and there is obviously the opportunity now for the veterans to get this assistance and get their cost-of-living increase now. There is also an opportunity for cancellation of the VA loan obligation equal to—and in some cases greater than as was included in the bill as passed by the Senate. If we did wait for a conference, I think we might wait for a good many months.

Mr. JAVITS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is this bill as it has come back amendable?

The PRESIDING OFFICER. Yes, it could have been amended.

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

Mr. LONG. I object.

The PRESIDING OFFICER. The objection is heard.

The second assistant legislative clerk resumed the call of the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I should like to explain the circumstances which led me to take the position that I have taken.

I was told about this arrangement which Senator CRANSTON reported, but I am certainly not in agreement with it and I certainly did not evidence any agreement with it. I heard a lot of mumbling, and then suddenly, the Chair put the question. I was on my feet seeking to do something about it.

Mr. President, I think in all fairness, though the record shows that there is a motion to table pending, that I should be recognized for the purpose of making a brief statement about this matter, and so should any other Senator who wishes to if we are really going to do business fairly here.

I ask unanimous consent for that purpose.

The PRESIDING OFFICER. Is there objection?

The Senator from New York.

Mr. JAVITS. Mr. President, here is our situation. I never was in my life impractical or an obstructionist. I have no doubt about the good faith or the honest intentions of my colleague and friend from California, but there is a problem here. I realize the desire to get the 6.6 percent and get it to the veteran promptly. But we did fight a battle here in the Senate in which we had quite a good deal of support on the question of whether, in many States throughout the country, these GI bill benefits are not available because of the high tuition situation.

The bill which Senator CRANSTON and Senator DURKIN have brought before us did not do anything to correct this situation, because it only did something about tuition over $1,000 a year; whereas tuition in most public institutions is somewhere between $400 and $1,000.

We had very dramatic figures showing that our people were not getting the benefits of the GI bill. In States that have no tuition, like California, or in States where tuition is very high, like New Hampshire, that bill was fine. But in our State, it did not do any good and maintained the present discriminatory situation.

We lost our particular amendment. But as a result of our debate, the Senate did adopt some relief for this situation.

Now, the House has sent us something which not only aggravates that situation, but imposes yet a new thing; to wit, the States are supposed to come up with a third of the accelerated tuition payment. Everybody knows here, as well as I do, that that is practically an impossible condition unless the State takes it out of some other scholarship fund.

We are put in a very, very grave dilemma in this late hour of the session.

Mr. President, on October 19 the Senate debated the GI Bill Improvements Act of 1977. The Senate unanimously agreed to an accelerated tuition provision which would provide accelerated payment of entitlement to veterans to pay 66⅔ percent of tuition costs above $700. This provision would substantially help veterans to utilize their education benefits where tuition costs are high.

The House, without even sitting down in a conference with the Senate, has put before this body a "compromise" acceleration provision which is no compromise at all.

The provision we are urged to accept will provide accelerated payments to

meet 33⅓ percent of a veteran's tuition charges above $700, if the States provide an equal match of State funds for this purpose.

Mr. President—this proposal is fatally flawed for two important reasons:

First, the idea of making veterans' benefits into a State-matching program flies in the face of the entire history of veterans' benefits. Is a veteran to receive less benefits for his service to his country, because he is a citizen of a poorer rather than richer State? I feel it is unwise for the Congress to embark upon such a justification for any benefit this Nation bestows upon the men and women who have served in their Nation's armed services.

Second, Mr. President, to couple this meager assistance for veterans with high tuition costs—33 percent of costs above $700—with the requirement that the States match Federal dollars, is tantamount to saying that there will be no help for veterans to meet high tuition. Few, if any, States can afford to meet current costs of higher education—much less come up with additional appropriations with which to match Federal dollars for veterans' benefits.

For these reasons, Mr. President, I intended to offer the following amendment to H.R. 8701, which I felt would be acceptable to the Senate and to the House of Representatives.

This amendment simply strikes the provisions in H.R. 8701 which make the acceleration provision a "State-matching" program, and removes an unnecessary House provision which could restrict assistance to much less than 33⅓ percent of tuition costs above $700.

The adoption of my amendment would provide accelerated benefits to pay for 33 percent of tuition costs above $700. This is one-half the assistance provided in the Senate bill. I feel this compromise would be acceptable to the House, would assure some meaningful assistance to hard-pressed Vietnam veterans, and would not make the GI bill a State-matching program. I would have urged its acceptance by my colleagues.

This table, Mr. President, explains a further problem with the House position on these issues:

DOES THE GI BILL PAY ONLY PART OF A VETERAN'S EDUCATION?

SOME VETERANS CURRENTLY PROFIT FROM GI BILL AND WILL PROFIT MORE AFTER 6.6% INCREASE

In percent

	Profit before 6.6	*Profit after 6.6*
Single Veterans at average cost junior college (resident)	−$79	$83
Single Veterans at average cost junior college (nonresident)	308	470
Single Veterans at free junior college (resident)	310	472
Single Veterans at free junior college (nonresident)	670	830

These figures are based on average costs of education developed by the College Board and presented in testimony by Representative Albert Quie.

These figures above show, rather than just meeting part of some veterans' education expenses, that they are actually making a profit on the GI Bill.

THE DISABLED VETERAN HAS LESS MONEY TO LIVE ON PER MONTH THAN THE VETERAN ATTENDING A FREE COMMUNITY COLLEGE

One of the ironies of today's GI Bill is the treatment of a disabled veteran who chooses to use his disabled veterans program. For example, the tuition the veteran pays at say the State University of New York, is $950 (3rd and 4th years) and therefore he chooses to have the federal government pay his tuition and books. This means that he has less money to live on each month than a veteran attending a junior college in California where tuition is often free. To explain that further, the veteran attending the free-tuition institution has $292 a month to live on. He has to pay no tuition and probably $20 a month for books. This means that he has more than $450 a nine-month school year to live on than does a disabled veteran out of his GI Bill.

My inclination and that of Senator MOYNIHAN—and I think other Senators are interested—is that we really are up against the wall. We have to let this go. But we do not have to let it go just in silence. We have to let it go because we are faced with that dire necessity.

But we wish to register our strong protest, and to serve notice that we shall do our utmost to see that the situation will be corrected. It is unfair and discriminatory and extremely harmful to those GI's in our States, and they number in the tens of thousands, who are denied the same opportunity as GI's in other States simply by the way this scheme is set up.

That is the way I feel about it. I yield to Senator MOYNIHAN.

Mr. MOYNIHAN. I thank my distinguished colleague.

Mr. President, we shall be brief. Our purpose is in no way to obstruct this legislation, but, nonetheless, to register the fact that we of the Congress must, forthwith, address the issue before us in a satisfactory manner. We have here, for the first time in a quarter century, recognized the issue and acted to some extent to alleviate the problem. It is left to us now to enact legislation which will, in deed and not just theory, give life to the fact that the benefit equally conferred on veterans by the GI bill is an opportunity to an education.

With no one having intended it, it is nevertheless the case that the GI bill, which has been a symbol of national purpose and uniformity of treatment, has become one of those extraordinary regionally biased pieces of legislation. It is an embarrassment to me, and I know that the Senator from California will know that it says nothing in the least to him. This dynamic was set in motion in 1952. I refer him to a datum about the experience of Vietnam veterans in California as against New York, the two largest States, two of comparable population.

There are in California something over 900,000 Vietnam veterans, while there are something less than 600,000 in New York. Yet between fiscal year 1968 and 1976, GI bill payments in California were $3,173,000,000. During the same period in New York, they were $1,124,000,000.

How could a national program have ended up with a three-to-one bias where there is in fact only a three-to-two balance of veteran population. This is not a water conservation program. This is not a program that has to do with the irrigation of the deserts. This program has to do with providing additional opportunities for men and women who have served their country in time of war.

Mr. President, what we have asked is that the bias that was built into this program when its original formulation from the Second World War was changed in 1952, be attended to by the Congress.

The Senate responded, at least in part, to the questions Senator JAVITS and I raised. Now we have nearly lost them. We do not intend to obstruct this legislation, but we do intend to be back and to speak to this matter as long as it is required or we are present.

We cannot have a situation in which one State on a major issue can have a three-to-one advantage as against another State in which a whole cohort of young people returning as veterans of war have a wholly different experience in their opportunity to an education.

The GI bill was designed to make educational opportunity available to veterans. It has turned out that this availability has become very much unequal and we speak now in disappointment about the inevitable, that we must accept this bill presented to us by the other body, this emaciated version of the original Senate bill.

I think the Senator, my senior colleague, can agree that we will be back next year. But next year we hope there will be some larger sensibility of this hidden problem which has now emerged and which I know the committee and this Senate will want to address itself to in the period between now and the next legislation.

Mr. LONG. Mr. President, I hope we can vote on this bill. The Senators from New York have made their point. Their figures sound somewhat familiar because I think they made the same point when the bill passed, but their position was not sustained.

I hope they will renew their struggle next year and let us vote on this bill so we can get on with the social security bill

As far as I am concerned, I am not a part of the dispute. I hope we can vote on it so we can get on with the social security measure.

Mr. JAVITS. Mr. President, I intend at the earliest moment to introduce a bill to correct the situation and I ask Senator CRANSTON, as chairman of the Veterans Committee—Senator MOYNIHAN and others will join—I ask Senator CRANSTON whether he will give us a prompt hearing on such a bill?

Mr. CRANSTON. We have had 2 days of hearing this past June—and in fact neither of the Senators from New York testified. In fact, they did not introduce their legislation until 3 days before our committee markup session. But I will be glad to give the Senator a further appropriate opportunity to present his view. I want to note for the record also

that there was certainly no intention to proceed without full notice to all Senators. I was under the understanding that the procedure had been fully cleared on all sides.

Mr. JAVITS. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I shall be with my distinguished senior colleague from New York when we join this issue next session. I thank the Senator from California and say that we have no intention to hold up any proceedings any further.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

SOCIAL SECURITY FINANCING AMENDMENTS OF 1977

The Senate continued with the consideration of H.R. 9346.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 1550

(Purpose: Relating to 6-month extension of Emergency Unemployment Compensation Act of 1974.)

Mr. JAVITS. Mr. President, on behalf of myself and Senators HEINZ, CASE, RIEGLE, CHAFEE, PELL, STEVENS, and WILLIAMS, I call up amendment No. 1550.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Senators HEINZ, CASE, RIEGLE, CHAFEE, PELL, STEVENS and WILLIAMS, proposes an amendment numbered 1550.

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

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

The amendment is as follows:

At the appropriate place in the Act, insert the following new section:

SIX-MONTH EXTENSION OF EMERGENCY COMPENSATION PROGRAM

SEC. . (a) Section 102(f)(2) of the Emergency Unemployment Compensation Act of 1974 is amended to read as follows:

"(2) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week ending after April 30, 1978.".

(b) The amendment made by subsection (a) shall apply to weeks of unemployment ending after October 31, 1977.

The PRESIDING OFFICER. There is a 40-minute time limit.

Mr. JAVITS. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, this amendment proposes that the Federal supplemental benefits program providing additional unemployment compensation to long-term unemployed workers who have exhausted their entitlements to benefits under the permanent Federal-State unemployment insurance system be extended for a period of 6 months from its expiration date, which was October 31, 1977, just a few days ago.

In December 1974 the Congress responded quickly and effectively to the jobs crisis by creating the Federal supplemental benefits (FSB) program, providing additional unemployment compensation to long-term unemployed workers who exhausted their entitlements to benefits under the permanent Federal-State unemployment insurance (UI) system. The permanent UI programs include the regular State benefits, usually for a maximum duration of 26 weeks, and the Federal-State extended benefits program, which provides up to 13 additional weeks. Combined, these provide a potential maximum duration of 39 weeks of compensation.

During the deepest part of the recession, specifically from April 1975 to April of this year, the FSB program provided up to 26 weeks of additional benefits, allowing an unemployed worker a maximum potential entitlement of up to 65 weeks of compensation. For the last 6 months, expiring on October 31, 1977, the program has provided a maximum of 13 weeks of additional benefits for a total entitlement of up to 52 weeks.

Mr. President, the unemployment rate is very sticky. It remains at 7 percent, which is close to 7 million unemployed, and in the last months it has varied very little.

The month before it was 6.9 percent. The month before that, 7 percent. The month before that, 7.1 percent.

So we have almost 7 million unemployed, Mr. President, and the number of those who were unemployed for extended periods of time is increasing.

Right now, Mr. President, the persons unemployed for 27 weeks or longer have just increased by 20,000 and they come to 946,000.

The States now suffering high unemployment and participating in FSB are Alaska, Maine, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Washington, and the Commonwealth of Puerto Rico. Fully one quarter of the U.S. labor force is located in these States.

Over the winter, this list of States is likely to more than double, incorporating more than half of the Nation's workforce, with the addition of California, Illinois, Massachusetts, Oregon, Vermont, Connecticut, Idaho, Montana, Minnesota, Nevada, and North Dakota.

Mr. President, one of the other things which appears very markedly, and I refer to the testimony of Mr. Shiskin, the Commissioner of Labor Statistics, this very morning, who testified to the 7-percent figure, he points out, and I quote:

The unemployment rate has now leveled for 6 months at about 7 percent, an unprecedented high level for an economic expansion period.

He points out, Mr. President, a very serious matter which bears upon this amendment.

He says:

However, the black unemployment rate, and particularly the rate for black adult males, seems to be rising. The employment population ratio for whites rose to an all-time high, while the black ratio continues to fluctuate at historically low levels.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield myself 2 additional minutes.

Mr. President, in view of the impact of these unemployment terms upon the poorest part of our population; to wit, these black adult males—and the continuing fact that we have about 7 million unemployed—nothing has changed since October 31, or since we extended this program for 7 months—it seems to me that before we go home we should at least put on the books, as a standby, this particular extension.

Accordingly, the amendment we propose today would continue FSB for an additional 6 months to April 30, 1978. We can make a judgment again early next year whether this program should be continued further or whether economic circumstances permit its termination.

I wish to remind my colleagues that an extension of this program does not mean that any unemployed worker, no matter what the economic situation, will automatically draw 52 weeks of benefits. The FSB program contains its own State economic trigger which means that it will provide additional benefits only if the unemployment situation remains at severe recessionary level in States which have insured unemployment of 5 percent—generally equivalent to about 7 percent overall unemployment—or more for the preceding 13-week period. If it is not needed, it will not be available. This brief extension is simply standby insurance against the danger of increased unemployment and the probability that the Congress will not be in session to restore the program again in time for most of the winter of 1977–78.

Although participation in the FSB program had declined in recent months, this apparent lessening of the unemployment crisis cannot be read as an indication that further need for the program has abated. A careful examination of the unemployment data shows just the opposite.

The summer and fall months traditionally show a decline in unemployment rates, but also take an upswing in the late fall and peak in late winter. Even more importantly is the recent rapid escalation of participation in the extended benefits program. As of the last week in August, participation in the extended benefits program—those unemployed for between 26 and 39 weeks—had dropped to 280,000. But, by the first week in October, the latest period for which data are available, that figure had jumped to over 450,000, an increase of 60 percent.

If this trend continues, as many long-term unemployed workers will be relying on additional Federal benefits this year as last year. Participation in the extended benefits program could easily rise to 600,000 or more, equal to the level registered during the energy crisis of last winter. And, during last winter, and the winter before that as well, Federal supplemental benefits were available for a maximum duration of 65 weeks. Even with the extension I am proposing today, the maximum will be for 52 weeks.

The figures for participation in the EB program take on added significance

with regard to extension of the FSB program when it is realized that historically about 90 percent of exhaustees of the EB program go on to participate in the FSB program. In addition to increased participation in the EB program, figures released by the Bureau of Labor Statistics last month indicate that the average duration of unemployment for an individual unemployed worker is once again on the rise.

In short, there are disturbing indications that the unemployment picture is deteriorating once again. Until such time as we are sure that we have overcome the recession, it would be unwise to discontinue the FSB program, a crucial weapon in our antirecession arsenal.

Since its December 1974 enactment, Congress has on several occasions, modified and extended the program to continue to provide for the needs of the long-term unemployed. The most recent extension came just last April. At that time Congress extended the FSB program for an additional seven months, in the hope that the economic picture would improve sufficiently so as to permit its expiration. The sad reality remains, however, that unemployment has not improved significantly. If the FSB program is not extended, hundreds of thousands of American workers will exhaust all entitlement to unemployment benefits and be left without the wherewithal to support themselves and their families. In my own State of New York, approximately 100,000 new claims are expected during the period of the six month extension I am proposing.

The FSB program has been highly successful in providing income security for long-term unemployed workers. During calendar year 1976, over 2 million of our Nation's unemployed workers were FSB beneficiaries. In the first 7 months of 1977, the FSB program aided approximately 1 million unemployed workers. An additional, but undetermined number of unemployed workers would have been eligible to receive benefits except for the operation of State trigger requirements which went into effect January 1, 1976. These State trigger provisions prevented thousands of long-term unemployed workers from FSB eligibility despite the fact that many of them live in high unemployment areas within the ineligible States.

A study of FSB recipients prepared last year for the Department of Labor, under the mandate of the Emergency Compensation Act of 1974, indicates that the FSB program is succeeding in reaching unemployed workers most in need of additional assistance during the recession. That study, prepared by Mathematica Policy Research, Inc. of Princeton, N.J., reports that FSB recipients were found to have strong labor market attachment—an average of 17 years—including an average of 5 years of employment at their last jobs. FSB benefits were found to have had a substantial effect on household incomes. Without those benefits, 33 percent of the recipient households in 1975 would have had incomes below the Federal poverty line—approximately $5,000 for nonfarm families of four in 1975.

In addition, the study found that the single most important cause of an FSB recipient's job loss was the decline in business of their former employers.

FSB benefits also provide direct economic stimuli which aid in continued progress toward economic recovery. They flow directly into the mainstream of the economy from unemployed workers who use them to provide the basic essentials of food, clothing and shelter for their families.

I have long taken the position that unemployment compensation is a poor substitute for real jobs. Ideally, the private sector, complemented by effective job training and public service employment programs, would provide meaningful unemployment opportunities for all Americans who are ready, willing, and able to work. But, we cannot close our eyes to the cold reality of the employment picture on the inadequacies of the unemployment compensation system.

While the employment picture has improved somewhat, and we have made some strides toward expanding public service employment opportunities, these efforts fall far short of the remedy required if we are to provide all workers with meaningful job opportunities. An even more compelling reason for the extension of this program is that the permanent unemployment insurance program and other social welfare systems are inadequately prepared to cope with the needs of the long term unemployed. We have yet to see any meaningful, comprehensive reform of the unemployment compensation system. I again call on my colleagues, and particularly on the Finance Committee to turn its attention to this serious problem. The UI system is patchwork of temporary solutions and unsatisfactory compromises. Piecemeal legislation is not the answer, but it is the only available solution so long as we do not have meaningful reform of the entire unemployment compensation system.

Our failure to develop sufficient job training opportunities also provides compelling justification for the extension of the FSB program. If we could provide effective job opportunities for the long-term unemployed we would have no need for a UI system that provides benefits for such an extended period. Despite considerable congressional attention to the need for developing effective job training, any realistic appraisal of our efforts must conclude that we have not yet developed programs which can offer adequate jobs for a sufficient number of the long term unemployed.

Finally, the inadequacy of our welfare system also argues for extension of this program. The long term unemployed worker who exhausts his benefit entitlements under the various UI programs may have no viable alternative but to join the welfare rolls. The recognized inadequacy of the welfare system should compel us to postpone forcing long term unemployed workers onto the welfare rolls until we develop a system that provides adequate income maintenance without robbing its beneficiaries of their self-respect or incentive to seek employment.

Last March Congress extended the FSB program for an additional 7 months. At that time I proposed that the program be extended for a full year, to carry us through the winter high unemployment months. In light of the current employment picture, and estimates for the next few months that do not project any rapid improvement, this amendment would extend the FSB program for an additional 6 months. In considering this amendment, I ask my colleagues to bear in mind two important facts. First, while we have experienced some economic improvement in the past year, recovery in many of our largest States lags behind that in the Nation as a whole. Second, the FSB program is triggered "on" and "off" on a State by State basis. Therefore, as the economic picture in any given State improves, the program will automatically discontinue when it is no longer needed.

So I felt it my duty, and so did Senator HEINZ, who came to me with a very special interest in this matter, to do this before we went home, knowing that we could not deal with this matter again until the depths of winter, when it might cause a great deal of hardship and welfare cases, and so forth, to give the Senate the opportunity to express itself on this matter. This is the only bill upon which we feasibly could do it. That is the reason for this amendment.

Mr. LONG. Mr. President, the administration does not support this amendment. This amendment would cost $500 million. It would benefit certain persons in the States of Alaska, Maine, Michigan, New Jersey, New York, Pennsylvania, Rhode Island, Washington, as well as the Commonwealth of Puerto Rico. The other 42 States would not benefit from this amendment.

This program for a solid year of unemployment benefits for persons working at least 20 weeks develops some situations that cry out for correction.

For example, the Labor Department did a survey as to what families receive in these emergency unemployment benefits, and they found that, on the average, the family income was $8,190 for the family not counting the unemployment benefit. The benefit was in addition to $8,190 in average family income.

For women with husbands, the average family income was $10,640 without the unemployment benefits. Since these families have substantial income on the average, it may be questioned whether the unemployed person is truly available and seeking employment.

For example, it has been discussed that in many situations the wife has gone to work and worked about 20 weeks, or whatever the minimum is that it takes to become eligible. Then, when she finds herself out of work, she goes back to the house and she is working for the family. Her services are of great value to the family in the home. If you look at the fact that they are drawing benefits which average about $2,500, and there is no tax on it, it is a pretty good deal.

In fact, in some families, we can find situations where the family would be making more money after taxes because the wife is not working than if the wife were working, especially if you consider

the family income and the services of the wife in doing cooking and household services and other services to the family that a wife does in the home.

Mr. President, this program has been extended and extended again. It has been extended to the point that we have other programs. It was felt, when we got into this program, that we would continue it until other programs were developed to deal with unemployment. We have those programs.

We have only these eight States plus Puerto Rico that have the high unemployment rate, and in Puerto Rico 70 percent of the population receives food stamps. That probably bears some relation to the high unemployment rate in Puerto Rico.

I suppose that if I represented one of those States, I would be taking the same view as the Senator from New York, saying that we should continue the program when it expires again and saying that we should continue when it comes up for renewal.

At some point, these temporary programs should be terminated. It seems to me that this is about as good a time as any to terminate it. That is what the administration seems to think.

I hope the amendment will not be agreed to.

Mr. JAVITS. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. HEINZ. Mr. President, this is an enormously important amendment. It is important not only for the States that are immediately affected by it, as Senator JAVITS has pointed out, but also, it is going to be immensely important, I fear, for a large number of other States, States that incorporate half this Nation's work force. I refer to California, Illinois, Massachusetts, Oregon, Vermont, Connecticut, Idaho, Montana, Minnesota, Nevada, and North Dakota, because during this winter, these States, according to the best information, are estimated to be States that may need these benefits. Thus, we are talking about something that is truly national in scope.

When unemployment rises to the 5-percent insured rate, which is approximately a 7-percent actual rate, the unemployed have an extremely difficult time, an impossible time, finding a job. If there is unemployment of 4 or 5 percent, actual rate, there is changeover, there is turnover, in the work force. Although there always are, unfortunately, people who are unemployed, the people move in and out of the work force. But when the actual rate rises to 7 percent, as it is here, some unemployed workers simply cannot find a job. The consequences of that to the individual worker, the man or woman who has been feeding, housing, and clothing a family, are disastrous. Therefore, in such a period of high unemployment, extended unemployment benefits, as are provided for in the proposed amendment, are needed.

Mr. President, I originally intended to offer this amendment because of the acute unemployment problems facing the working people of my home State of Pennsylvania. However, when I discovered that Senator JAVITS' State of New York faced similar problems, I concluded that it would be more appropriate for him to introduce this amendment, because he is recognized on both sides of the aisle as being the most knowledgeable and effective legislator on this issue. I asked him to participate and he generously agreed. I wholeheartedly applaud his commitment to the plight of our unemployed.

I wholeheartedly endorse this amendment to extend the Federal supplemental benefits program. Extension of FSB will provide critical assistance to those workers in States which have experienced and continue to experience consistently high unemployment rates.

The issue to which we address ourselves through this amendment is the right of American working men and women to have sufficient financial means to meet their basic needs as they continue their search for employment, a search necessitated by economic conditions beyond their control. Absent the benefits of FSB, the nearly 1 million Americans whom this program might benefit during the 6-month extension proposed in the amendment will be faced with the choice of either abject poverty or the acceptance of welfare assistance. I correct myself. This is not a choice. In order to survive, these previously employed workers will be forced to swell the welfare rolls.

In certain States, their receipt of welfare will be conditioned on the liquidation of some of their assets. Thus, a worker might be forced to sell his or her home, probably at a reduced, forced-sale price, only to find out a week later that the sale was unnecessary, because he or she had finally been successful in the search for employment.

The workers who are eligible for FSB, I hasten to add, have been employed. These American men and women, I emphasize, are in need of assistance because economic conditions have rendered fruitless their search for further employment.

It was the severity of the economic conditions existent in December 1974 and our commitment to provide for the basic needs of workers forced into unemployment by those economic conditions which moved us to enact the Emergency Unemployment Compensation Act of 1974. The continuation of this economic recession exacerbated by the severity of last winter resulted in our extension of FSB.

Many areas of our country are still economically devastated by recessionary conditions. The impact of foreign imports on our economy, especially on the steel industry, has deluged an already problem-ridden economy with more difficulties. In view of these facts and in view of our past commitment to assist American working men and women whose employment expectations are frustrated by economic conditions beyond their control, I entreat my colleagues to again come to the aid of these Americans, Americans who are unemployed but looking forward to the day when there will again be a place for them in the American economy.

The supplemental benefits program has provided the long-term unemployed worker with a minimal level of subsistence; it amounts to only an average of $70 per week on a national basis. This is a small amount. It is not a question of allowing people to live in luxury; it is simply providing the bare minimum for basic human needs during the extended period of unemployment.

Mr. President, nearly 1 million unemployed workers, including over 21,000 Pennsylvanians who were receiving the benefits of the supplemental benefits program when it was recently terminated, could be deprived of these benefits when the phasedown is completed on January 31, 1978. A very substantial portion of these families who have not exceeded the 39 weeks under the extended benefits program will face cutoffs this week without immediate congressional action.

This will be the first winter in 2 years which we have faced without a supplemental benefits program. For the last 2 years the unemployment benefits have been extended to 65 weeks. Now, with the unemployment picture clouded at best, and the weather situation uncertain, and with industrial fuels such as natural gas likely to be in short supply, we will face winter with only 39 weeks of benefits available.

Mr. President, Under Secretary of Labor, Robert J. Brown stated on September 9, as reported in the Philadelphia Inquirer of that date, that "unless the unemployment rate dropped below 7 percent in October or November, the Carter administration will seriously consider legislation extending benefits beyond 52 weeks. The extension will probably be for an additional 13 or 65 weeks."

Today, the Department of Labor released the unemployment statistics for October. The national unemployment stands at 7 percent in October. And during October, blacks and factory workers, especially steelworkers, were hit the hardest by the economic conditions which plague our country. The unemployment rate for blacks rose almost a full percentage point during the last month to a totally unacceptable 13.9 percent. In addition, over 60,000 steelworkers have been put out of work.

As I said a moment ago, Under Secretary of Labor Brown stated that if unemployment did not go below 7 percent, the administration would support the extension of unemployment benefits to 65 weeks. Well, the unemployment rate is not below 7 percent. The fact is that the country has a serious and persistent economic problem. The fact is that hundreds of thousands of Americans must struggle to survive until the economy picks up. And, although the administration has talked in vague and general terms about economic stimulus, the fact is that there is no concrete plan.

Mr. HEINZ. Mr. President, will the Senator yield 2 additional minutes?

We are getting talk about stimulating the economy, not action to do it. In the same way, we are getting lipservice to the problems of the unemployed. I do not

understand how the administration can continue to ignore this problem, especially when unemployment benefits are available for a full 26 weeks less than the 65 weeks of benefits which the Under Secretary of Labor stated would be the administration's goal.

I cannot believe that in the final days of this session, as we are about to stop conducting business for nearly 3 months that the administration could set upon a course which is so shortsighted. Under the best circumstances, the Congress would not be able to respond to an increasing unemployment rate until late January or early February. I believe that this "wait and see" attitude of the administration is foolish and will cause unnecessary hardship for thousands of families when the severe consequences of long-term unemployment could be judiciously dealt with now.

Mr. President, the basic issue here is one of equity:

> Equity for those states which continue to face high unemployment and for which the situation has little chance of change for the immediate future . . . and equity for the individuals who wish to re-enter the job market but who find all the doors closed to them right now.

If we cannot deal equitably and fairly with our previously employed who have become unemployed involuntarily then what hope can we seriously offer to our minorities or to our young who find the doors closed even tighter than those with skills and a previous employment record?

It is important to note that this proposed amendment has considerable support among our colleagues in the House. Congressman JAMES BURKE (D-Mass.), the chairman of the Subcommittee on Social Security of the Committee on Ways and Means, who is likely to be a conferee with respect to the present bill, is one among many Congressmen who have communicated their support to me. (Senator JAVITS and me.)

Mr. President, I exhort all of my colleagues to join us in support of this amendment, and through it, demonstrate their compassion and support to those deserving American workers who are presently unemployed as a result of the economic problems besieging our country.

Mr. JAVITS. I yield so much time as he may desire to the Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I shall try to be brief, and I thank the Senator from New York.

The Senator from Louisiana has indicated that we have a temporary program here. And he said that it has come to the end of its legislated temporary period, and this is as good a time as any to end this temporary program of supplemental benefits for the unemployed.

I suggest to our good friend, the most able and distinguished Senator from Louisiana, that this in my judgment is the worst time to end a program directed to the long-term unemployed, just as we go into the winter season when the job market, bad as it is, is at its worst point, and at a time when we know the long-term unemployment is getting worse.

So, I urge my colleagues to agree to the amendment that the Senator from New York (Mr. JAVITS) and I have offered to renew and extend the emergency compensation benefits program for another 6 months.

The extension proposed in our amendment would meet the obvious need to help long-term unemployed persons survive the coming winter without impoverishing themselves and their families. Under the amendment, these important benefits would be available until next April 30 in States where joblessness remains very high and where scarce jobs remain very difficult to find.

This emergency compensation program, known in the Federal establishment as Federal Supplemental Benefits (FSB), has been a mainstay in our efforts to combat the human misery that the recession inflicted on American workers. Since its enactment in December of 1974, it has provided additional unemployment assistance to workers who exhausted their benefits under the permanent unemployment insurance system.

These permanent programs now provide up to 39 weeks of benefits for jobless workers in all States. Since last April 30, the FSB program has afforded an additional maximum of 13 weeks of benefits where high rates of unemployment persist. For the 2 years prior to April 30, the program provided up to 26 weeks of additional benefits.

Termination of this program now, just as the winter doldrums are taking hold, would be a classic case of the worst possible timing.

It is important to bear in mind, Mr. President, that the national unemployment rate has not improved over the past 6 months. It has remained on a plateau of about 7 percent, seasonally adjusted.

Looking beyond this disappointing reality, however, it is also important to bear in mind that the seasonal adjustment factors camouflage the fact that, in real numbers, many more workers are off the job now than last summer, and many more will be added to the unemployment lines in the months just ahead.

A key statistical indicator is the number of persons enrolled in the extended benefits (EB) program, which provides benefits for those who have exhausted their entitlements under the regular 26-week program. These EB recipients would be eligible for the FSB program that would be renewed by the Javits amendment, if they remain unemployed despite their best efforts to find work for up to 52 weeks.

In the first week of November last year, 565,880 persons were enrolled in the EB program. By the end of February, this number had risen to 630,474, reflecting both the general rise in unemployment and the greater difficulty of the long-term unemployed to find a job.

By the third week of August, EB enrollments had dropped to 279,216, reflecting a dramatic decrease in long-term unemployment across the Nation.

But within a few weeks, the trend made an even more dramatic turnaround. During September and October, EB enrollments have risen by more than 179,000 to the level of 458,411 in the third week in October.

In short, Mr. President, long-term unemployment has increased dramatically in recent weeks. Jobs are more difficult to find, and for those who cannot find them, the situation will worsen as winter settles in. It is this group of workers for whom we seek adoption of our amendment today.

The need for this legislation is particularly crucial in my home State of New Jersey, which had the highest unemployment rate last year of any State, 10.4 percent. Conditions have improved significantly in recent months in New Jersey, but joblessness remained at 8.6 percent in August. Over 268,000 workers were counted as unemployed persons who were looking for a job but could not find one.

Nearly 33,000 jobless workers were receiving extended benefits (EB) in August. Another 23,000 were receiving Federal supplemental benefits (FSB), or emergency compensation (EC) as it is known in my State.

Without enactment of our amendment, some 3,000 New Jersey residents will be dropped from the UI rolls abruptly.

Still another 57,000 New Jersey residents, not now enrolled in FSB, would qualify for, but not receive, these benefits if our amendment is not enacted.

In summary, some 60,000 unfortunate workers and their families in my State alone will need the FSB payments this winter.

Without these benefits, their choices will be few. Unable to find a job during the most difficult winter season, they will be forced to exhaust their personal savings and, in many cases, turn to the welfare program to keep home and family together.

Mr. President, the monthly unemployment report of the Bureau of Labor Statistics, released just this morning, gives little reason for comfort to jobless Americans.

Overall unemployment in October was up slightly to 7 percent, where it has remained virtually unchanged since April.

Long-term unemployment—persons unemployed 27 weeks or longer—increased by 20,000 last month alone, to a level of 946,000 workers. These are the workers who will, in many cases, have dire need for FSB assistance this winter.

Among blue-collar workers, who have among the lowest earnings in the workforce and need help the most as a result, unemployment increased sharply in October from 7.9 percent to 8.3 percent.

If there were any hope that manufacturing employment would expand to absorb seasonal workers, it is a vain hope. Manufacturing employment has remained static since May.

Finally, Mr. President, I hope that my colleagues will give special attention to the fact that, without an extension of the FSB program for the coming winter, the long-term unemployed will be asked to make do with far less than Congress provided them last winter and the winter before.

You will recall, Mr. President, that the FSB program provided up to 65 weeks of benefits during the last two winters. As the law now stands, it would provide a maximum of only 39 weeks of benefits during the winter ahead.

Such a cutback in maximum benefit duration constitutes a harsh reduction in the Federal commitment to help working Americans cope with the recession.

I recognize, Mr. President, that a return to a 65-week maximum benefit duration is not likely to be approved by the Congress. I fought that battle last spring, and the majority on the other side was large enough to persuade me not to renew that battle.

But a 52-week maximum is realistic and, I believe, would meet with the approval of the House of Representatives. It is the least we can do at this time, Mr. President, and that is why our amendment is written as it is.

It provides for a return to the 52-week maximum benefit duration that was in effect until this week and extends that provision until next April 30.

So, for all of the reasons of humanity and the harsh facts of what the situation is going to be this winter with the unemployed, I earnestly hope this amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield to the Senator from Wyoming 3 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 3 minutes.

Mr. HANSEN. Mr. President, it has been stated here this evening that this is not a regional or a local program but, indeed, a national program.

I call attention to that fact. I do not think it really makes much difference to a person who has been out of work whether he lives in the State of New York or in a State such as the State of Kentucky, where the rate of unemployment at the present time runs about 2.97 percent.

I do not believe it is fair or equitable that it should be to an unemployed worker's advantage to be able to say he is in one of these States where this trigger is going to apply.

I voted against extending benefits when that extension came up a few years ago. This amendment would extend Federal benefits going directly to the worker for another 3 months.

I know it is tough to be out of work. I do not think it can be contended that there are not cases where work could be found. I will not dwell on that subject very long. But right in this city of Washington, D.C., you can look at the want ads or you can drive around the town, as I have and I know that many Members have, and find signs asking people to come in and offer their services to take a job.

But the thing that strikes me that is basically wrong about this amendment is that it rewards people who are unemployed if they happen to be fortunate enough to live in a State where the trigger applies, and on that basis I think the Senate should reject this amendment. If it were going to be applied equitably over the entire United States, there would be greater justification for it than there is at the present time, but since only a few States receive the benefit, I do not believe the amendment actually provides a "national solution to the national problem of unemployment.

I hope, as a consequence, that the Senate will reject this amendment.

Mr. LONG. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, we have in this bill the Moynihan amendment which the administration will accept. It provides $374 million for the remainder of this fiscal year to be spread among all the States. New York, for example, will get $53 million of that money, and California will get a nice big chunk of it. Those are the two States that get the biggest help. But all the States will get fiscal relief they had not even planned on or budgeted and all of that they can use for their welfare programs. They will certainly give a priority to welfare if they need to. I do not think they want to use this money with people drawing the benefits where the family income is $12,500, and that is the average family income including unemployment benefits for these families with husband and wife where the wife is receiving unemployment compensation. For all recipients the average is $10,420 with the unemployment benefits, $8,190 without. Those people are not all that hard up. That is way above the poverty line. If anyone is in a situation of need, we have right in this bill $374 million for the States that they were not even budgeting on to help take care of the needy.

Mr. President, no one need suffer because we have a lot of money in this bill to help take care of situations where someone might find himself in need.

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

How much time does the Senator from Oklahoma desire?

Mr. BELLMON. Five minutes.

Mr. LONG. I yield 5 minutes to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I hesitate to throw a cold blanket over the fun some Members are having spending the taxpayers' money as well as the money of future generations of taxpayers. But I believe the total budget implications of this bill needs to be called to the Senate's attention before we vote on the Javits amendment. I shall give a little report on what actions have been taken so far today in terms of the budget for fiscal year 1978.

When this bill came out of the Committee on Finance it managed to walk a fine line under the budget resolution the Senate passed less than 2 months ago. Actually the Committee on Finance was only technically within its allocation under the budget resolution.

That resolution, Mr. President, assumed a $350 million amount in medicare and medicaid cost savings, that up to now the Committee on Finance has not yet reported a bill on it.

Taking the committee version of the social security bill into account, and assuming there were no medicare-medicaid savings, which seems to be a fairly reasonable assumption at this point, the Committee on Finance would have been about $200 million over its allocation of direct spending entitlements under the budget resolution.

The Budget Committee did not make a fuss about it. We hope the Committee on Finance will report a bill to make such savings. There is still time to do it, and we urge them to go ahead and reach that goal.

There was also a small overage of allocations. That small overage could disappear when we make some updated estimates later on, so there really was not much to be glad about.

We were able to agree with the Committee on Finance that it was consistent with the second budget resolution. But look what we have done here on the floor the last couple of days.

We have added fiscal year 1978 spending in these ways:

First of all, the DeConcini-Bayh amendment on benefits to the blind added $300 million in spending; the Wallop amendment on the offset of workman's compensation benefits against social security costs $150 million; the Bumpers amendment to the Roth amendment on refundable tax credit for college tuition was $100 million; so we have added $550 million to the bill that was at least $250 million over.

In addition we are going to quickly vote, hopefully, on the Javits amendment that is going to extend Federal supplemental unemployment benefits for 39 weeks, and this is going to cost another $500 million.

So, Mr. President, this means we have got more than $1 billion in fiscal year 1978 not covered in the budget resolution.

If this bill is not to rupture the budget entirely, it is going to be absolutely essential that the conference agreements reduce some of the fiscal year 1978 spending under this bill or it will ultimately be $1 billion more than we can afford under the budget.

The Budget Committee cannot legally raise points of order against these costly floor amendments the way the law is written. We can only tell the Senate what we are doing to the budget with these big spending schemes. The fact is that we are now rupturing the budget that we planned so carefully and adopted only a few weeks back.

I want to conclude by again saying that the Javits amendment adds $500 million to the deficit, which is already approaching $63 billion for fiscal year 1978. The deficit in fiscal year 1977 was only $45 billion by comparison. We are roughly then going to be $20 billion further in the red in fiscal year 1978 than we were in fiscal year 19777.

We are moving in precisely the wrong direction. It is going to have immensely damaging effects on the economy of the country, and I urge that we begin to practice restraint by defeating the Javits amendment.

Mr. LONG. Mr. President, I appreciate the statement of the distinguished Senator from Oklahoma. In this situation, the Committee on Finance is pleading with the Senate not to put this additional $500 million on the bill. We do not think it is justified, and we are urging that it not be agreed to.

We are also trying to comply with the Budget Committee's admonition that we should not spend this money, and I do not want to spend it.

Mr. JAVITS. I yield myself 30 seconds. I would like to call attention to this Alice-in-Wonderland situation of the Senate. We have been spending all day adding billions of dollars, and we are suddenly becoming economical at the expense of the unemployed.

I yield a minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I must say one man's thrift is another man's wild spending.

In this particular bill, it seems to me, as we come into these difficult days ahead, particularly with respect to those workers who have had this long-time unemployment, many of whom are in marginal industries which are going to be very severely affected by the taxes that have been dramatically increased in the Senate over the past 2 weeks—and I am speaking of the energy taxes and the social security taxes that are going to force many marginal industries under, with the concomitant and associated unemployment, Mr. President, that being so, I support the remarks of those who have gone before in favor of this measure.

Mr. JAVITS. Mr. President, I yield the remainder of our time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank my colleagues who I have joined in this colloquy.

I would like to speak directly and quickly to the economics of this situation. What we have done the last 2 days, Mr. President, is to overwhelmingly raise taxes in America, and we do so at a time when the rising, and I think now a majority, judgment of economic observers of this country is that there must be a tax cut. The President has as much as said so.

For example, the costs to the gross national product alone of the social security tax increases that were adopted by the House, Merrill Lynch estimates at $2.9 billion GNP.

The point, Mr. President, is that President Carter will probably propose a tax cut this January because this economy is not moving as it should. In my State unemployment is 7.8 percent, but the effect of the Javits amendment would be a tax cut, an immediate direct increase of disposable income in the family budgets of people who are in this economy.

It is not only social justice but it is, in my view, prudent economic anticipation of the fact that the economy needs stimulation. It needs more purchasing power. Now that we have greatly increased the amount of money the government will take out of the economy, here is an opportunity in an area of great need and equity to increase the amount that will go in. It will partially compensate for what we have done.

This could be, in effect, the first economic stimulus of President Carter's 1978 program.

I thank my colleagues.

Mr. LONG. I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

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

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 29, nays 43, as follows:

[Rollcall Vote No. 629 Leg.]

YEAS—29

Abourezk	Gravel	Mathias
Anderson	Griffin	Moynihan
Bayh	Haskell	Nelson
Case	Hathaway	Pell
Chafee	Heinz	Riegle
Clark	Jackson	Sarbanes
Cranston	Javits	Schweiker
Culver	Kennedy	Stafford
Danforth	Leahy	Williams
Dole	Magnuson	

NAYS—43

Allen	Garn	Nunn
Baker	Glenn	Packwood
Bellmon	Hansen	Proxmire
Bumpers	Hart	Randolph
Burdick	Hollings	Roth
Byrd, Harry F., Jr.	Inouye	Schmitt
Byrd, Robert C.	Laxalt	Stennis
Chiles	Long	Stevenson
Church	Lugar	Stone
Curtis	Matsunaga	Talmadge
Domenici	McClure	Thurmond
Durkin	McGovern	Tower
Eagleton	McIntyre	Wallop
Ford	Melcher	Young
	Metzenbaum	

NOT VOTING—28

Bartlett	Hayakawa	Percy
Bentsen	Helms	Ribicoff
Biden	Huddleston	Sasser
Brooke	Humphrey	Scott
Cannon	Johnston	Sparkman
DeConcini	McClellan	Stevens
Eastland	Metcalf	Weicker
Goldwater	Morgan	Zorinsky
Hatch	Muskie	
Hatfield	Pearson	

So Mr. JAVITS' amendment was rejected.

The PRESIDING OFFICER (Mr. SARBANES). Under the unanimous-consent agreement, the Chair recognizes the Senator from Texas (Mr. TOWER).

UP AMENDMENT NO. 1066

(MODIFICATION OF AMENDMENT NO. 1541)

(Purpose: A proposal to amend the Social Security Act and the Internal Revenue Code of 1954 to strengthen the financing of the social security system.)

Mr. TOWER. Mr. President, I call up my amendment No. 1541.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment numbered 1541.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and I send to the desk a modification.

The PRESIDING OFFICER. Without objection, the reading of the amendment is dispensed with, and the amendment of the Senator from Texas is modified.

The amendment as modified (UP No. 1066) is as follows:

Strike out section 101.

Strike out section 102.

Strike out section 103 and insert in lieu thereof the following:

PARTIAL TRANSFER OF HOSPITAL INSURANCE TAX INCREASE TO OASDI TRUST FUND; INCREASE OF EMPLOYMENT AND SELF-EMPLOYMENT TAXES; REALLOCATION AMONG TRUST FUNDS

SEC. 103. (a) TAX ON EMPLOYEES.—

(1) Old-age, survivors, and disability insurance.—Paragraphs (1) and (2) of section 3101(a) of the Internal Revenue Code of 1954 are amended to read as follows:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar years 1978 through 1981, the rate shall be 5.10 percent;

"(3) with respect to wages received during the calendar years 1982 through 2010, the rate shall be 5.15 percent; and

"(4) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent.".

(2) Hospital insurance.—Paragraphs (2) through (4) of section 3101(b) of the Code are amended to read as follows:

"(2) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 0.95 percent;

"(3) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.20 percent; and

"(4) with respect to wages received after December 31, 1985, the rate shall be 1.35 percent.".

(b) TAX ON EMPLOYERS.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCES.—Paragraphs (1) and (2) of section 3111(a) of the Code are amended to read as follows:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar years 1978 through 1981, the rate shall be 5.10 percent;

"(3) with respect to wages paid during the calendar years 1982 through 2010, the rate shall be 5.15 percent; and

"(4) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.".

(2) Hospital insurance.—Paragraphs (2) through (4) of section 3111(b) of the Code are amended to read as follows:

"(2) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 0.95 percent;

"(3) with respect to wages paid during the calendar years 1981 through 1985, the rate shall be 1.20 percent; and

"(4) with respect to wages paid after December 31, 1985, the rate shall be 1.35 percent.".

(c) TAX ON SELF-EMPLOYMENT INCOME.—

(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—Subsection (a) of section 1401 of the Code is amended to read as follows:

"(a) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—In addition to other taxes there shall be imposed for each taxable year, on the self-employment income of every individual, a tax as follows:

"(1) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1978, the tax shall be equal to 7.00 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977 and before January 1, 1982, the tax shall be equal to 7.15 percent of the amount of the self-employment income for such taxable year.".

"(3) in the case of any taxable year beginning after December 31, 1981, the tax shall be equal to 7.20 percent of the amount of the self-employment income for such taxable year.".

(2) Hospital insurance.—Paragraphs (2) through (4) of subsection (b) of section 1401 of the Code are amended to read as follows:

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to .95 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.20 percent of the amount of the self-employment income for such taxable year; and

"(4) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year.".

Strike out section 104 and insert in lieu thereof the following:

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 104. (a) Section 215(a) of the Social Security Act is amended to read as follows:

"(a)(1)(A) The primary insurance amount of an individual (except as otherwise provided in this section) is equal to the sum of—

"(i) 80 per centum of the individual's average indexed monthly earnings (determined under subsection (b)) up to the amount established for purposes of this clause by subparagraph (B),

"(ii) 37 per centum of the portion of the individual's average indexed monthly earnings which exceeds the amount established for purposes of clause (i) but does not exceed the amount established for purposes of this clause by subparagraph (B), and

"(iii) 25 per centum of the individual's average indexed monthly earnings to the extent that they exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

"(B)(i) In the case of an individual who becomes eligible for old-age or disability insurance benefits or who dies in the calendar year 1979, the amounts established with respect to subparagraphs (A)(i) and (A)(ii) are $250 and $1,010, respectively.

"(ii) In the case of an individual who becomes eligible for old-age or disability insurance benefits or who dies in a calendar year after 1979, each of the amounts established with respect to subparagraphs (A)(i) and (A)(ii) shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph, and the quotient obtained by dividing—

"(I) the average Consumer Price Index prepared by the Department of Labor for the 12 months of the second calendar year preceding the calendar year for which the determination is made, by

"(II) the average such Consumer Price Index for the calendar year 1977.

"(iii) The amounts established under clause (ii) shall be rounded to the nearest $1.00, except that an amount that is a multiple of $0.50 but not a multiple of $1.00 shall be rounded to the highest $1.00.

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than the greatest of—

"(I) the amount in the first line of column IV in the table of benefits contained (or deemed to be contained) in this subsection as in effect in December 1978,

"(II) the amount determined under subsection (i) (except subclause III of this clause) with respect to this subparagraph, or

"(III) an amount equal to $9 multiplied by the individual's years of coverage in excess of 10.

"(ii) For purposes of the preceding clause, the term 'years of coverage' means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to the individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1974 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year.

"(D) In each calendar year after 1978, the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subparagraph (b)(3) to an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the average Consumer Price Index (as described by clause (I) of subparagraph (B)(ii)) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the average Consumer Price Index (as so described) for each year after calendar year 1950.

"(2)(A) In the case of an individual who was entitled to a disability insurance benefit for any of the 12 months before the month in which he became entitled to an old-age insurance benefit, became reentitled to a disability insurance benefit, or died, the primary insurance amount for determining any benefit attributable to that entitlement, reentitlement, or death is the greater of—

"(i) the primary insurance amount upon which that disability insurance benefit was based, increased in the case of the individual who so became entitled, became reentitled, or died, by each general benefit increase as defined in subsection (i)(3)) and each increase provided under subsection (i)(2) that would have applied to that primary insurance amount had the individual remained entitled to that disability insurance benefit until the month in which he became entitled, reentitled, or died, or

"(ii) the amount computed under paragraph (1)(C).

"(B) In the case of an individual who was entitled to a disability insurance benefit for any month, and with respect to whom a primary insurance amount is required to be computed at any time after the close of the period of the individual's disability (whether because of that individual's subsequent entitlement to old-age insurance benefits, to a disability insurance benefit based upon a subsequent period of disability, or death), the primary insurance amount so computed may in no case be less than the primary insurance amount on the basis of which he most recently received a disability insurance benefit.

"(3)(A) Except as otherwise provided by paragraph (4), paragraph (1) applies to—

"(i) an individual who was not eligible for an old-age insurance benefit prior to January 1979 and who in that or any succeeding month—

"(I) becomes eligible for that benefit,

"(II) becomes eligible for a disability insurance benefit, or

"(III) dies, and

"(ii) an individual described in clause (i) who was eligible for a disability insurance benefit for a month prior to January 1979,

(except to the extent that paragraph (4)(A) otherwise provides).

"(B) For the purposes of this title, an individual is deemed to be eligible for an old-age insurance benefit beginning in the month in which he attains age 62, or for a disability insurance benefit for months beginning in the month in which the disability began as described in section 216(i)(2)(C), unless less than 12 months have so elapsed since the termination of a prior period of disability.

"(4) Paragraph (1) does not apply to the computation or recomputation of a primary insurance amount for—

"(A) an individual who was eligible for a disability insurance benefit for a month prior to January 1979 unless, prior to the month in which there occurs the event described in clause (i)(I), (i)(II), or (i)(III) of paragraph (3)(A), there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit, or

"(B)(i) an individual who had wages or self-employment income credit for a year before 1979 and who was not eligible for an old-age or disability insurance benefit, or did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed—

"(I) under section 215(a) (without reference to section 215(d)), as in effect in December 1978, in the case of an individual who becomes eligible for an old-age insurance benefit prior to 1984, or

"(II) as provided by section 215(d), in the case of an individual to whom such section applies.

"(ii) For purposes of determining under clause (i) which amount is the greater—

"(I) the table of benefits in effect in December 1978 shall apply without regard to any increases in that table which become effective (in accordance with subsection (i)(4)) for years after 1978 and prior to the year in which the insured individual became eligible for an old-age or disability insurance benefit, or died, and

"(II) the individual's average monthly wage shall be computed as provided by subsection (b)(4).

"(5) With respect to computing the primary insurance amount, after December 1978, of an individual to whom paragraph (1) does not apply (except an individual described in paragraph (4)(B)), this section as in effect in December 1978 remains in effect.".

(b) Section 215(b) (except the caption thereof) is amended to read as follows:

"(b)(1) The amount of an individual's average indexed monthly earnings is equal to the quotient obtained by dividing—

"(A) the total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

"(B) the number of months in those years.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

"(B) For purposes of this subsection—

"(i) the term 'benefit computation years' means, in the case of any individual, those computation base years, equal in number to the number determined under subparagraph (A) of this paragraph, for which the total of the individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

"(ii) the term 'computation base years' means, in the case of any individual, the calendar years after 1950 and prior to the earlier of—

"(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202(j)(1) or otherwise) the first month of that entitlement;

"(II) in the case of an individual who has died, the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

"(iii) the term 'number of elapsed years' means, in the case of any individual, except as otherwise provided by section 104(j) of the Social Security Amendments of 1972 (Public Law 92-603), the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred after 1960, the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

"(3)(A) Except as provided by subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) is deemed equal to the product of—

"(i) the wages and income credited to such year, and

"(ii) the quotient obtained by dividing—

"(I) the average Consumer Price Index prepared by the Department of Labor for the 12 months of the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (but excluding the year in which the individual dies, or becomes eligible, if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such year), by

"(II) the average of such Consumer Price Index for the computation base year for which the determination is made.

"(B) Wages paid in or self-employed income credited to an individual's computation base year—

"(i) which occurs after the second calendar year specified in subparagraph (A)(ii)(I), and where applicable, or

"(ii) in a year under subsection (f)(2)(D) considered to be the last year of the period specified in subsection (b)(2)(B)(ii),

are available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

"(4) In determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the tables contained therein) in December 1978, by reason of subsection (a)(4)(B), this subsection as in effect in December 1978 remains in effect, except that paragraph (2)(C) (as then in effect) is deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) of this section as in effect in January 1979) for an old-age or disability insurance benefit, or died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year.".

(c) Section 215(c) (except the caption thereto) is amended to read as follows:

"(c) This subsection, as in effect in December 1978, shall remain in effect with respect to an individual to whom subsection (a)(1) does not apply by reason of the individual's eligibility for an old-age insurance or disability insurance benefit, or the individual's death, prior to 1979.".

(d)(1) The matter in section 215(d) which precedes subparagraph (C) of paragraph (1) is amended to read as follows:

"(d)(1) For the purpose of column I of the table appearing in subsection (a) of this section, as that subsection was in effect in December 1977, an individual's primary insurance benefit shall be computed as follows:

"(A) the individual's average monthly wage shall be determined as provided in subsection (b) of this section, as in effect in December 1977 (but without regard to paragraph (4) thereof), except that for purposes of paragraphs (2)(C) and (3) of that subsection (as so in effect), 1936 shall be used instead of 1950.

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect), the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who attained age 21 after 1936 and prior to 1951 shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 21 and prior to the earlier of 1951 or the year of the individual's death. The quotient so obtained is deemed to be the individual's wages credited for each of the years included in the divisor except—

"(i) if the quotient exceeds $3,000, only $3,000 is deemed to be the individual's wages for each of the years included in the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, is deemed credited to the year immediately preceding the earliest year used in the divisor, or (II) if $3,000 or more, are deemed credited, in $3,000 increments, to the year in which the individual attained age 21 and to each year consecutively preceding that year, with any remainder less than $3,000 credited to the year prior to the earliest year to which a full $3,000 increment was credited; and

"(ii) no more than $42,000 may be taken into account, for purposes of this subparagraph, as total wages after 1936 and prior to 1951.".

(2) Section 215(d)(1)(D) is amended to read as follows:

"(D) The individual's primary insurance benefits shall be 40 per centum of the first $50 of his average monthly wage as computed under this subsection, plus 10 per centum of the next $200 of his average monthly wage; increased by 1 per centum for each increment year. The number of increment years is the number, not more than 14 nor less than 4, that is equal to the individual's total wages prior to 1951 divided by $1,650 (disregarding any fraction).".

(3) Section 215(d)(3) is amended (A) by striking subparagraphs (A) and (B), and (B) by striking the dash after "individual" and inserting instead the text of the stricken subparagraph (B).

(4) Section 215(d) is amended by adding at the end the following new paragraph:

"(4) The provisions of this subsection as in effect in December 1977 shall be applicable to individuals who become eligible for old-age insurance or disability insurance benefits or died prior to 1978.".

(e) Section 215(e) is amended—

(1) by striking out "average monthly wage" each time it appears and inserting instead "average indexed monthly earnings or, in the case of an individual whose primary insurance amount is computed under section 215(a) as in effect prior to January 1979, average monthly wage," and

(2) by inserting immediately before "of (A)" in paragraph (1) the following: "(before the application, in the case of average indexed monthly earnings, of subsection (b)(3)(A))".

(f)(1) Section 215(f)(2) is amended to read as follows:

"(2)(A) If an individual has wages or self-employment income for a year after 1978 for any part of which he is entitled to old-age or disability insurance benefits, the

Secretary shall, at such time or times and within such period as he may by regulation prescribe, recompute the individual's primary insurance amount for that year.

"(B) For the purpose of applying subparagraph (A) of subsection (a)(1) to the average indexed monthly earnings of an individual to whom that subsection applies and who receives a recomputation under this paragraph, there shall be used, in lieu of the amounts of those earnings established by clauses (i) and (ii) of subparagraph (B) of that subsection, the amounts that were (or, in the case of an individual described in subsection (a)(4)(B), would have been) used in the computation of the individual's primary insurance amount prior to the application of this subsection.

"(C) A recomputation under this paragraph shall be made as provided in subsection (a)(1) as though the year with respect to which it is made is the last year of the period specified in subsection (b)(2)(B)(ii), and subsection (b)(3)(A) shall apply with respect to any such recomputation as it applied in the computation of such individual's primary insurance amount prior to the application of this subsection.

"(D) A recomputation under this paragraph with respect to any year shall be effective—

"(i) in the case of an individual who did not die in that year, for monthly benefits beginning with benefits for January of the following year; or

"(ii) in the case of an individual who died in that year, for monthly benefits beginning with benefits for the month in which he died.".

(2) Section 215(f)(3) is repealed.

(3) Section 215(f)(4) is amended to read as follows:

"(4) A recomputation is effective under this subsection only if it results in a primary insurance amount that is higher (by at least $1) than the previous primary insurance amount.".

(4) There is added at the end of section 215(f) the following new paragraph:

"(7) This subsection, as in effect in December 1978, shall continue to apply to the recomputation of a primary insurance amount computed under subsection (a) or (d) as in effect (without regard to the table contained in subsection (a)) in that month, and, where appropriate, under subsection (d) as in effect in December 1977. For purposes of recomputing the primary insurance amount under subsection (a) or (d) (as thus in effect) with respect to an individual to whom those subsections apply by reason of paragraph (B) of subsection (a)(4) as in effect after December 1978, no remuneration shall be taken into account for the year in which the individual initially became eligible for an old-age insurance or disability insurance benefit, or for any year thereafter.".

(g)(1) Section 215(i)(2)(A)(ii) is amended to read as follows:

"(ii) If the Secretary determines that the base quarter in any year is a cost-of-living computation quarter, he shall, effective with the month of June of that year as provided in subparagraph (B), increase—

"(I) the benefit amount of each individual who for that month is entitled to benefits under section 227 or 228,

"(II) the primary insurance amount of each other individual on which benefit entitlement is based under this title, and

"(III) the total monthly benefits based on each primary insurance amount and permitted under section 203 (which shall be increased, unless otherwise so increased under another provision of this title, at the same time as the primary insurance amount on which they are based) or, in the case of a primary insurance amount computed under subsection (a) as in effect (without regard to the table contained therein) prior to January 1979, the amount to which the beneficiaries may be entitled under section 203 as in effect in December 1978, except as provided by section 203(a)(6) and (7) as in effect after December 1978,

but shall not increase a primary insurance amount that is computed under subparagraph (C)(i)(III) of subsection (a)(1) or a primary insurance amount that was computed prior to January 1979 under subsection (a)(3) as then in effect. The increase shall be derived by multiplying each of the amounts described in clauses (I), (II), and (III) (including each of those primary insurance amounts or benefit amounts as previously increased under this subparagraph) by the same percentage (rounded to the nearest one-tenth of 1 percent) as the percentage by which the Consumer Price Index for that cost-of-living computation quarter exceeds that index for the most recent prior calendar quarter which was a base quarter under paragraph (1)(A)(ii) or, if later, the most recent cost-of-living computation quarter under paragraph (1)(B). Any amount so increased that is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10.".

(2) Section 215(i)(2)(A) is amended by adding at the end the following new clause:

"(iii) In the case of an individual who becomes eligible for an old-age insurance or disability insurance benefit, or dies prior to becoming so eligible, in a year in which there occurs an increase provided in clause (ii), the individual's primary insurance amount (without regard to the time of entitlement to that benefit) shall be increased (unless otherwise so increased under another provision of this title) by the amount of that increase, but only with respect to benefits payable for months after May of that year.".

(3) Section 215(i)(2)(D) is amended by striking out all that follows the first sentence, and by inserting instead the following: "He shall also publish in the Federal Register at that time a revision of the benefit table established by subparagraph (C)(i)(I) of subsection (a)(1), and that shall be the amount determined for purposes of subparagraph (C)(i)(II) of such subsection.".

(4) There is added at the end of section 215(i) the following new paragraph:

"(4) This subsection, as in effect in December 1978, shall continue to apply to subsections (a) and (d), as then in effect, with respect to computing the primary insurance amount of an individual to whom subsection (a), as in effect after December 1978, does not apply (including an individual to whom subsection (a) does not apply in any year by reason of paragraph (4)(B) of that subsection, but the application of this subsection in such cases shall be modified by the application of subclause (I) of clause (ii) of such paragraph (4)(B)). For purposes of computing primary insurance amounts and maximum family benefits (other than primary insurance amounts and maximum family benefits for individuals to whom such paragraph (4)(B) applies), the Secretary shall publish in the Federal Register revisions of the table of benefits contained in subsection (a), as in effect in December 1978, as required by paragraph (2)(D) of this subsection, as then in effect.".

Strike out section 108 and insert in lieu thereof the following:

SEC. 108. (a) The amendments made by section 103 of this Act shall be effective on January 1, 1978.

(b) The amendments made by the preceding provisions of this Act, except as provided in subsection (a), and other than section 104(d), shall be effective with respect to monthly benefits and lump-sum death benefits under title II of the Social Security Act payable for months after December 1978. The amendments made by section 104(d) shall be effective with respect to monthly insurance benefits of an individual who becomes eligible for an old-age or disability insurance benefit or who dies after December 31, 1977.

Insert at the appropriate place in title II the following new section:

NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. . (a)(1) There is hereby established a commission to be known as the National Commission on Social Security (hereinafter in this section referred to as the "Commission").

(2)(A) The Commission shall consist of—

(i) five members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall, at the time of appointment, be designated as Chairman of the Commission;

(ii) four members to be appointed by the Speaker of the House of Representatives; and

(iii) four members to be appointed by the President pro tempore of the Senate.

(B) At no time shall more than three of the members appointed by the President, two of the members appointed by the Speaker of the House of Representatives, or two of the members appointed by the President pro tempore of the Senate be members of the same political party.

(C) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess the demonstrated capacity to discharge the duties imposed on the Commission, and shall include representatives of the private insurance industry and of recipients and potential recipients of benefits under the programs involved as well as individuals whose capacity is based on a special knowledge or expertise in those programs. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(D) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(E) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(F) Members of the Commission shall be appointed for the life of the Commission.

(G) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(3) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(4) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; but meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

(b)(1) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(A) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(B) the health insurance programs established by title XVIII of such Act.

(2) Such study, investigation, and review of such programs shall include (but not be limited to)—

(A) the fiscal status of the trust funds established for the financing of such programs, with emphasis on means for keeping the trust funds in positive, long-range actuarial balance over the next 75 years and for keeping the reserve ratios at a 25 percent level, or, alternatively, at a 50 percent level;

(B) the rapid draining of funds from the Disability Insurance Trust Fund under present law;

(C) the public welfare aspects of the old-age, survivors, and disability insurance program which provides greater benefits to low income individuals than to high income individuals in relation to the amount contributed to the trust funds by such individuals;

(D) the inclusion of Federal employees, or other employees presently excluded, under the old-age, survivors, and disability insurance program and the hospital insurance program; and

(E) the establishment of a system permitting covered individuals a choice of publice or private insurance programs, or both.

(3) In making recommendations the Commission may not consider—

(A) the use of general revenue financing to support (in whole or in part) the insurance programs;

(B) the use of a system whereby the duties of employer and employee to contribute to the funding of the insurance programs are not equal;

(C) the inclusion of Federal employees under the insurance programs if such inclusion would result in a level of benefits for Federal employees below the level of benefits received by such employees under present law; or

(D) any modifications in benefits which would increase costs to the insurance programs, unless such modifications are accompanied by recommendations which provide for a means for keeping the trust funds in positive, long-range actuarial balance over the next 75 years, and for keeping the reserve ratios at a 25 percent level, or alternatively, at a 50 percent level.

(4) In order to provide an effective opportunity for the general public to participate fully in the study, investigation, and review under this section, the Commission in conducting such study, investigation, and review, shall hold public hearings in as many different geographical areas of the country as possible. The residents of each area where such a hearing is to be held shall be given reasonable advance notice of the hearing and an adequate opportunity to appear and express their views on the matters under consideration.

(c)(1) No later than 4 months after the date on which a majority of the authorized membership of the Commission is initially appointed, the Commission shall submit to the President and the Congress a special report describing the Commission's plans for conducting the study, investigation, and review under subsection (b), with particular reference to the scope of such study, investigation, and review and the methods proposed to be used in conducting it.

(2) On or before January 1, 1979, the Commission shall submit to the President and the Congress an interim report on the study, investigation, and review under subsection (b), together with its recommendations with respect to the programs involved. On or before January 1, 1980, the Commission shall submit to the President and the Congress a final report of the Commission on such study, investigation and review, and shall include its final recommendations; and upon the submission of such final report the Commission shall cease to exist

(d)(1) The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(2) In addition to the executive director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(e) In carrying out its duties under this section, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this section, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(f) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, any such department or agency shall furnish any such data or information to the Commission.

(g) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(h) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

(i) It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act) to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

The amendments made by this amendment to sections 1401, 3101, and 3111 of the Internal Revenue Code of 1954 shall not be modified as a result of any amendment to the bill H.R. 9346 agreed to prior to the adoption of this amendment.

The PRESIDING OFFICER. Will the Senator suspend momentarily, while we clear the aisles and obtain order in the Chamber? Senators will please take their seats.

The Senator from Texas.

Mr. TOWER. Mr. President, the modification I have made does not change my amendment substantially, except to the section relative to the elimination of——

Mr. NELSON. Mr. President, may we have order so we can hear the Senator from Texas?

The PRESIDING OFFICER. The point is well taken. Will Senators please cease their conversations?

The Senator from Texas.

Mr. TOWER. Mr. President, the only change my modification makes in the original amendment No. 1541 is to change the section on earnings limitations to conform with the amendment of the Senator from Arizona, as modified by the Senator from Idaho. In other respects it is the same, except that it is not offered as a substitute, but as an amendment to the bill.

Mr. President, everybody in this country has a stake in the future of the social security system—and there is no longer any question that its financing needs to be overhauled. That is why the choices we in Congress must now make in finding ways to shore up its sagging financial structure are so critical. The decisions we make, the legislation we write, will determine if generations of working Americans to come can expect meaningful benefits in return for their years of contributions.

While I share with my colleagues on the Finance Committee's desire to solve this particularly complex issue, I believe there are alternatives to those suggestions made by the committee. We cannot place this burden of lessening the financial ills of social security too heavily on our middle class and business community. Buffeted by inflation, and ever larger taxes imposed by Government, middle income families cannot be made to bear a still greater share of the financing load for the retired generation. Applying a disproportionate share of this tax to employers would be equally unfair and ill advised. Employers will not pay increases in payroll taxes out of profits, but rather will shift the tax primarily to their employees, either through lower wages or by hiring fewer workers. Increased prices to the consumer would be an unavoidable product of this approach.

Mr. President, the precipitate rise in taxable wage base, the inequitable distribution of payroll tax increases as suggested by the Finance Committee, will combine to produce inadequate and, in my view, unacceptable options for the American people.

Therefore, today I ask my colleagues to consider the more responsible alternatives found in my financing proposal which effectively answer the short-term and long-term needs of social security and restore financial integrity to the system once again.

To achieve these goals, my amendment first averts drastic funding changes proposed to ease the short-range problems by using available moneys in a wiser fashion. During this time an appointed outside commission would be instructed to find comprehensive solutions to the impending deficit without shifting funds from general revenues or without breaking the historic partnership of the employer and the worker in financing the system on an equal basis. Second, it would solve the long-range financing problems by using a price-indexing formula of decoupling, which would correct the error in the 1972 amendments. Meanwhile it would insure that future retirees receive benefits that keep pace with their cost of living. Third, my amendment would also retain the action which the Senate has already taken on the modification of the outside earnings limitation, together with other amendments which the Senate already has approved.

Mr. President, financial soundness can be achieved and a number of longstanding inequities in social security can be corrected. The damage is not beyond repair. But social security is much too important for ill-considered, quick-fix solutions such as the Finance Committee seems to have embraced.

I call on my colleagues to consider my proposal as a more responsible alternative to the other legislation we have been asked to consider. I am convinced that the results of our combined efforts will effectively stabilize the drain on the trust funds and renew Americans' confidence in an economically viable social security system once again.

We do not need to act this year in a hasty and precipitate fashion. We do not need to act similarly next year. Through proper—and more rational—allocation of our currently scheduled tax resources, we have until the early part of the next decade to make changes—permitting a deliberative and careful review of this entire question.

Therefore, Mr. President, I urge the adoption of my amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. DANFORTH. Will the Senator yield for a question?

Mr. TOWER. I yield for a question.

Mr. DANFORTH. I commend the Senator from Texas for his proposal. With respect to the decoupling issue, this is a somewhat technical problem which was created several years ago when Congress, I think inadvertently, double indexed the computation for the initial pay-out of social security to both wages and prices. It is universally recognized, I believe, that decoupling, that is, resolving this combination of two different methods of indexing, has to be accomplished.

The bill which is before us would decouple by retaining wage indexing. I do not have the figures before me now, but the fact of the matter is that if instead of retaining wage indexing we retain price indexing, we would protect those who do reach the age for receiving social security from the effects of inflation, which is exactly what indexing is supposed to do. We would still preserve the possibility of adjusting the benefits of those who have already reached retirement age, which possibility is, I believe, forgone by the approach that we are taking in this bill, which would retain the wage indexing method of computation.

The Senator's proposal also would result in a considerable saving for the social security trust fund.

If that were the Senator's sole proposal I would have no hesitation at all in supporting the Senator, and supporting him enthusiastically. However, I am a little bit concerned about the possibility of a further study. We have had a study for the last few years, and I think have pretty well debated the course we can take in resolving the short-term problems of social security financing.

My question will be, how long does the Senator intend to put it off? If we do put off the resolution of the short-term problem, we simply increase the actuarial problem which we are going to have to solve down the road, which would be even more tax or base increases in some future year than we have in this bill.

Mr. TOWER. I want to thank the Senator for his very constructive contribution to this discussion. I may say that he has certainly stated the case for decoupling far more eloquently and lucidly than I could.

In fact, my proposal does make the social security benefits inflation proof but does not result in the enormous costs that wage indexing would result in. Therefore, I think it makes the system more sound.

In terms of the commission, it is my intent that it would be a very bipartisan commission, aloof from political considerations, that could look at this matter in a seasonal and timely fashion and make some sort of recommendations to us. They would be required to report on January 1 of 1980. The fund would not run out until the year of 1983. Therefore, there would be an ample period of time in which Congress could act subsequent to the report of the commission. There would be approximately 3 years in which Congress could act.

It could, of course, accept or reject what the findings of the commission or the recommendations of the commission might be.

Mr. DANFORTH. As far as the short term problem, the short term solution, the Senator would, in essence, put that off until 1983?

Mr. TOWER. Well, the short term solution is that we make the system solvent through 1983 by a judicious transfer of funds. Therefore, there would be no fear of bankruptcy of the system before 1983 if we failed to act before that time. But I would expect that we would act in a timely fashion subsequent to the report of the commission.

Mr. DANFORTH. Mr. President, the disability fund, as I understand it, would run out of money in 1979 and health insurance——

Mr. TOWER. No, by the transfer of funds, they would all run out in 1983.

Mr. DANFORTH. 1983?

Mr. TOWER. Yes, what we are doing is taking money out of one pocket and putting it into another, but to the extent that it all runs out in 1983. We would have to act prior to that time.

Mr. DANFORTH. Replenishing the reserve at that time would become more difficult, because we would have less time—we would have less of a reserve; therefore, we would have to replenish more. The eventual increase, therefore, would have to be higher——

Mr. TOWER. I might say to the Senator from Missouri that I am not promising anyone a rose garden. What I am suggesting here is that we can meet the problem of ultimate bankruptcy in this way, over a short term. The commission would be required to report in January of 1980. We would have ample time, then, to act on that report. Hopefully, it would be sufficiently objective and statesmanlike and sound that we could embody those recommendations in legislation that would give us a permanent solution, at least a long-range solution.

Mr. DANFORTH. I do want to commend the Senator on the second word of his answer to this problem. I think his decoupling approach is highly responsible. As a matter of fact, we have had a commission in existence for the past few years which has been something of a blue ribbon commission to study the problem of social security financing. One of the proposals that it made was to retain price indexes, which is, of course, what the committee would be interested in.

Mr. DOLE. Mr. President, will the Senator yield briefly?

Mr. TOWER. I yield to the Senator from Kansas.

Mr. DOLE. I just want to ask a question on the earnings limitation. How has the Senator from Texas modified his amendment in that area?

Mr. TOWER. What we did was simply incorporate the Goldwater amendment that was modified by the Church amendment that was adopted earlier this evening. That amendment stands. My provision was that there be a total removal of earnings limitations financed by a 1.25 tax to commence in the year 1979.

Mr. DOLE. I agree with the distinguished Senator's original proposal. Of course, we have modified it.

I want to point something out.

Mr. President, during the debate on the Church substitute to the Goldwater-Dole amendment there was a paper circulating in the well with some cost figures on the Goldwater-Dole amendment.

These cost figures were inserted into the record by Senator CHURCH. The fact is, the figures are inaccurate. Senator CHURCH stated that the amendment to eliminate the earnings limitation would cost:

1982	$2.4
1983	2.5
1984	2.5
1985	2.6
1986	2.7
1987	2.7

Or $15.4 billion more than the committee bill.

That is incorrect. I believe the Senator from Idaho will admit to the inaccuracy.

While the Goldwater-Dole amendment does cost about $1 billion more per year than the committee amendment in 1987, the fact is the Goldwater-Dole amendment would have cost only $100 million more in the first 10 years than the committee amendment.

These figures are directly from the Social Security Administration. The cost difference between the Church substitute and the Goldwater-Dole amendment is no more than $500 million in any year, not the $2 billion represented by the Senator from Idaho.

While the mistake was inadvertent the record must be set straight. I believe that the vote would have been different if these inflated figures were not circulated.

I hope that the conference will adopt the House amendment.

There was a great deal of discussion about the cost of the Goldwater amendment; that it would cost $15.4 billion more than the original bill was an inaccurate statement. I think the Senator from Idaho now understands it was not an accurate statement. I do not think it was made intentionally, but it was based on one of the Goldwater proposals that was not offered. As I said, I think the overestimation of costs might have cost Senator GOLDWATER a number of votes. I think the record should show what the actual costs are, because it might help in the adoption of this amendment.

Mr. TOWER. I might say I much prefer to eliminate the limitations altogether, but I am facing up to the realities of life here. The Senate has already acted, so I have incorporated that action of the Senate into my amendment.

Mr. CHURCH. Will the Senator yield for a comment?

Mr. TOWER. I yield to the Senator from Idaho.

Mr. CHURCH. It is true that the original figures that I placed in the RECORD related to an earlier version of the Goldwater amendment. That was a confusion that was not understood at the time. It has now been clarified and another set of figures have been inserted in the RECORD. I only want to state that the accurate set of figures still reflect a very substantial difference in cost between the Goldwater amendment and the Church amendment, a difference of $400 million a year, increasing to $600 million a year from 1983 to 1987. So the proper figures are now in the RECORD. The confusion has been corrected. I think the basic fact that the Goldwater amendment is substantially more costly than the one that the Senate did adopt is substantiated by the accurate figures that have been included in the second chart.

Mr. TOWER. Mr. President, I am prepared to allow the manager of the bill the opportunity to use some of his time. I am also prepared to yield back the remainder of my time. I shall reserve that time for the time being.

Mr. NELSON. I thank the Senator for his generosity in allowing me to use some of my time.

Mr. TOWER. I am always delighted to be generous to my distinguished friend from Wisconsin, especially with his own resources.

Mr. NELSON. I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Mr. Jeffrey Smith of my staff be granted the privilege of the floor.

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

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Bill Morris of the Finance Committee staff be granted the privilege of the floor during consideration of this bill.

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

Mr. NELSON. Mr. President, the Finance Committee members are familiar with the proposal that was made by the Senator from Texas, because we heard testimony on it by Dr. Hsiao, a Harvard professor. I will say to the Members of the Senate that this provision, like both Senator CURTIS' proposal and the Finance Committee proposal, is fiscally sound. That is to say, they all levy the necessary taxes to pay the benefits provided. So there is not any question at all that, if the Senate adopted the proposal of the Senator from Texas, the security of the fund is guaranteed.

Now, there is one fundamental difference, but not only one distinction, between the proposal by the Senator from Texas respecting replacement rates and the two proposals that were made by the Senator from Nebraska and the proposal that the Finance Committee made on the question of retirement replacement rates.

That is to say, the percentage of the salary that employees retire at was the same in Senator CURTIS' two proposals as in the Finance Committee proposal. The Tower proposal would lower replacement rates.

The Tower amendment uses price indexing so that the replacement rate, which is the percentage of the final rate of earning, continually goes down, and that is the difference.

If the Senate wishes to make the decision that the percentage of the final rate of earning replaced by social security shall be substantially reduced, then the proposal of the Senator from Texas meets the standard of anybody who wishes to support that.

I will just give a few illustrative figures so that everybody will be familiar with what they are voting on.

Under the Finance Committee bill, the average worker would receive a replacement rate in retirement 43 percent of his earnings the year before retirement. That is to say, the average replacement rate would be stabilized at 43 percent from now on. It is at 46 percent in 1977.

The replacement rate would drop to 43 percent and it would remain at 43 percent of the final computed rate of earning that is used for that purpose.

Under the proposal in the amendment offered by the Senator from Texas, the replacement rate would go from 46 percent in 1979—which it is for all other proposals—to 41 percent in 1985; in 1990 to 38 percent; in 1995, to 36 percent. And it would continue on down when in the year 2050, it would reach 26 percent.

The replacement rate under the Tower amendment would be 26 percent, whereas the replacement rate under the Finance Committee proposal would remain at 43 percent for those earning the average income. Under the proposal of Senator CURTIS, the replacement rate also would have been 43 percent.

A lower replacement rate has the consequence, of course, of requiring less taxes. That is true. So if the objective is to reduce the replacement rate to 26 percent ultimately instead of freezing it at 43 percent, then Senator TOWER's proposal should be adopted.

The proposal of the Senator from Texas costs less money in taxes than the Finance Committee plan. It produces a lower replacement rate, and that is the fundamental difference.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the comparative tables on the replacement rates of the two proposals.

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

FINANCE COMMITTEE

BENEFITS, REPLACEMENT RATES, AND EXPENDITURES UNDER COMMITTEE BILL, 1979–2050

[In percent except dollars]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1979	[5] $4,444	[5] 46	[5] 58	[5] 35	10.29	4.2
1985	4,713	43	54	30	10.56	4.3
1990	5,145	43	55	29	10.84	4.4
1995	5,581	43	54	30	11.29	4.5
2000	6,068	43	54	31	11.68	4.6
2010	7,172	43	54	32	12.88	5.0
2020	8,472	43	54	32	15.72	6.1
2030	10,011	43	54	32	17.86	7.0
2040	11,830	43	54	32	17.36	6.8
2050	13,978	43	54	32	16.81	6.6

	Percent
Average medium-range cost (1977–2001)	10.93
Average medium-range revenue	11.83
Average medium-range balance	+.90
Average long-range cost (1977–2051)	14.16
Average long-range revenue	14.22
Average long-range balance	+.06

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.
[5] Based on the present law benefit formula for all workers attaining age 62 before Jan. 1, 1979.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

TOWER AMENDMENT

[Proposal recommended by panel of consultants to Congressional Research Service]

[Initial average benefit close to present law in 1979; workers earnings records CPI indexed; benefit formula bend points CPI indexed; benefit formula factors not indexed]

[In percent except dollars]

Year	Worker with average earnings [1]		Replacement rate for worker with—		Aggregate OASDI expenditures	
	Annual benefit in 1977 prices	Replacement rate	Low earnings [2]	High earnings [3]	As percent of payroll	As percent of GNP [4]
1979	$4,444	46	58	35	10.9	4.5
1985	4,508	41	53	30	11.0	4.5
1990	4,597	38	50	28	11.0	4.5
1995	4,713	36	47	28	10.8	4.4
2000	4,908	34	45	28	10.5	4.3
2010	5,360	32	42	27	10.6	4.3
2020	5,962	30	40	26	12.0	4.9
2030	6,665	28	37	25	12.8	5.3
2040	7,496	27	35	24	11.8	4.9
2050	8,477	26	32	23	10.9	4.5

	Percent
Average medium-range cost (1977–2001)	10.8
Average medium-range revenue	9.9
Average medium-range deficit	−.9
Average long-range cost (1977–2051)	11.3
Average long-range revenue	11.0
Average long-range deficit	−.3

[1] Assumed to be 4 times the average 1st quarter covered earnings.
[2] Assumed at $4,600 in 1976 and following the trends of the average.
[3] Assumed at the maximum taxable under the program.
[4] Based on full employment and assuming taxable payroll equals 41.1 percent of GNP.

Note: The estimates in this table are based on the economic and demographic assumptions used in the intermediate cost estimates (alternative II) in the 1977 OASDI Trustees Report. The replacement rates pertain to workers with steady employment at increasing earnings and compare the annual retirement benefit at age 65 with the earnings in the year immediately prior to retirement.

Mr. TOWER. Mr. President, I would just like to say that the Senator from Wisconsin has certainly stated the case fairly.

It is something of a Hobson's choice we have to make between benefits and taxes, and that is the choice. It is there, and I cannot say anything to ameliorate that.

I simply say, however, in terms of 1977 prices that the benefits would almost double from the year 1979 to the year 2050.

It would not, perhaps, enable the beneficiary to keep up with the Joneses, but it would enable him to meet the inflationary rate and it would be less costly and, I think in the final analysis, it would have less hazardous impact on the ultimate security of the social security system.

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

Mr. TOWER. I will yield, I believe the Senator from Missouri was on his feet first, and then I will yield to the Senator from Nebraska.

Mr. DANFORTH. Mr. President, we have indexing. If we were to retain price indexing rather than wage indexing, it would protect people who retire from the ravages of inflation. It would protect the purchasing power of their social security benefits from inflation. That is the purpose of indexing.

The difference between wage indexing and price indexing has to do with the social security tax rate that we are going to have to charge in the long term. Under the committee's bill, between 1986 and the year 2011 and thereafter, the social security tax rate is going to increase from 7 to 9.20 percent.

The fact of the matter is that if we had——

The PRESIDING OFFICER. The time of the Senator——

Mr. DANFORTH. Instead of wage indexing, we could freeze it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. Mr. President, might I borrow some time from my good friend from Wisconsin to yield to the Senator from Nebraska?

Mr. CURTIS. Just 2 minutes.

Mr. NELSON. Yes, with interest.

Mr. CURTIS. I am sure there will be an interest in what I have to say.

Mr. NELSON. All right. What time does the Senator desire?

Mr. TOWER. Two minutes to the Senator from Nebraska.

Mr. NELSON. I yield 2 minutes to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished friend.

Mr. President, to the Senator from Nebraska, the big difference between the Tower amendment and the committee amendment is something different than has been discussed here. The Tower amendment is a temporary arrangement. It calls upon a report to give guidelines for us to follow meeting the long-range cost of social security.

So the advantage of the Tower amendment is twofold. It will avoid the matter of going to a program of doing away with the balance, an employee paying half, an employer paying half. That has never been approved by a majority vote anywhere. In the committee it was 9 to 9. It has a majority of a Vice President, that is all.

It was a tie here. It is a departure. It should not be followed.

Here is a chance to take a temporary measure that has a commission report. It is not my choice. I would rather have us meet it right now, levy the taxes, be honest with the people, restore the fund.

Mr. NELSON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. TOWER. My time has expired and I think we have debated it enough.

The PRESIDING OFFICER. All time has been yielded back. The yeas and nays have been ordered.

Mr. NELSON. Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. NELSON. I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to table the amendment of the Senator from Texas. 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. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the the Senator from Arizona (Mr. DECONCINI), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Mississippi (Mr. EASTLAND), the Senator from Montana (Mr. METCALF), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

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

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Carolina would vote "nay."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE) the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) would each vote "nay."

The result was announced—yeas 48, nays 21, as follows:

[Rollcall Vote No. 630 Leg.]

YEAS—48

Allen	Gravel	Melcher
Anderson	Hart	Metzenbaum
Bayh	Haskell	Moynihan
Bumpers	Hathaway	Nelson
Burdick	Heinz	Nunn
Byrd, Robert C.	Hollings	Pell
Case	Inouye	Proxmire
Chafee	Jackson	Randolph
Chiles	Javits	Riegle
Church	Kennedy	Sarbanes
Clark	Leahy	Stafford
Cranston	Long	Stevenson
Culver	Magnuson	Talmadge
Durkin	Mathias	Williams
Eagleton	Matsunaga	
Ford	McGovern	
Glenn	McIntyre	

NAYS—21

Baker	Garn	Schweiker
Bellmon	Griffin	Stone
Byrd, Harry, F., Jr.	Hansen	Thurmond
Curtis	Laxalt	Tower
Danforth	Lugar	Wallop
Dole	McClure	Young
Domenici	Roth	
	Schmitt	

NOT VOTING—31

Abourezk	Hayakawa	Percy
Bartlett	Helms	Ribicoff
Bentsen	Huddleston	Sasser
Biden	Humphrey	Scott
Brooke	Johnston	Sparkman
Cannon	McClellan	Stennis
DeConcini	Metcalf	Stevens
Eastland	Morgan	Weicker
Goldwater	Muskie	Zorinsky
Hatch	Packwood	
Hatfield	Pearson	

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

Mr. NELSON. Mr. President, I move to reconsider the vote by which the motion to lay the amendment of the Senator from Texas on the table was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1067

(Purpose: To eliminate the monthly retirement test.)

Mr. CHILES. Mr. President, I send to the desk an unprinted 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 Florida (Mr. CHILES) proposes unprinted an amendment numbered 1067.

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

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

The amendment is as follows:

Insert at the appropriate place the following:

ELIMINATION OF THE RETIREMENT TEST MONTHLY MEASURE EXCEPT FOR THE INITIAL YEAR IN WHICH MONTHLY BENEFIT IS RECEIVED

SEC. 130. (a) Clause (E) of the last sentence of section 203(f)(1) of the Social Security Act (as amended by section 121(d) of this Act) is further amended by inserting before the period at the end thereof the following: ", if such month is in the taxable year in which occurs the first month that is both (i) a month for which the individual is entitled to benefits under subsection (a), (b), (c), (d), (e), (f), (g), or (h) of section 202 (without having been entitled for the preceding month to a benefit under any other of such subsections), and (ii) a month in which the individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5)) of more than the exempt amount as determined under paragraph (8)".

(b) The amendment made by subsection (a) shall apply only with respect to monthly benefits payable for months after December 1977.

Mr. CHILES. Mr. President, I am offering an amendment to change the monthly earnings test to an annual test for purposes of determining whether an individual is retired and thus eligible for social security benefits.

I think we should encourage older people to keep working to the degree that they are still physically able to. More than any economic considerations, the work situation provides a valuable social support that prevents the loneliness and isolation which so many of the elderly suffer. I have long supported increasing the level of allowable retirement earnings in order to encourage continued employment, and I congratulate the Finance Committee for providing significant increases in this bill.

At the same time, I believe it is necessary to be as fair as possible in how we calculate the earnings limit. One flaw in the current law is that it allows an individual to be retired in 1 month, working in another, and so on, without regard to how much is earned in the working months. Many people can regulate their flow of income by reasons of self-employment or ownership of a business. Thus, they can earn $100,000 in 3 months of the year, then "retire" and draw social security benefits for the rest of the year. They can then go back to work again the next year and repeat the pattern. Social security is for them just a bonus piece of income. At the same time, we tell a salaried employee that we will reduce his benefits 50 percent for any earnings over $3,000. This is obviously unfair and discriminates against the salaried workers who tend to have lower incomes. The Social Security Administration estimates that about 80,000 persons currently avoid the earnings limitation by this mechanism.

My amendment would correct this flaw by calculating the earnings limit on an annual basis. This improvement was recommended by President Carter in his 1978 budget. It was also recommended by the previous administrations in their budgets. It has also been recommended by the Social Security Advisory Commission, an independent body that is appointed by the Secretary of HEW to oversee the soundness of the system.

It was included in the House-passed version of the bill. Now that we have a bill to make major changes in social security financing and increase the earnings limit, it is a good time to correct some of the flaws which have been draining the trust fund. This amendment will save $174 million in fiscal year 1978, $234 million in 1979 and more in later years. If we can cut down on a lot of these flaws in the benefit structure, we can minimize the tax increases necssary to keep the system solvent and pay a decent level of benefits to our retirees.

Mr. President, in order to make sure that the effects of this amendment would not have any negative effects on low-income workers, I asked the Social Security Administration to calculate the number of persons at each income level who would have their earnings reduced. I ask unanimous consent to print a table showing the results in the RECORD.

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

TABLE I.—*Percent of workers with reduced benefits under annual retirement test, by income (Data from 1975)*

[*Percent of workers with reduced benefits*]

Annual earnings:	
Less than $3,900	1
$3,900–$5,400	6
$5,400–$8,400	20
$8,400–$11,400	26
$11,400–$14,100	14
More than $14,100	32
All workers (Total does not add due to rounding)	100

Mr. CHILES. Mr. President, it is clear that no more than 1 percent of the affected workers earns less than the expanded earnings limit of $3,900. That is, 99 percent are using this mechanism to avoid the limits we are imposing on low-income workers who work every month of the year. Even assuming an increase in the earnings limit to $6,000 as provided in the Finance Committee bill, 93 persent of the affected workers would be exceeding the annual limit by means of the monthly computation.

I hope my colleagues will join me and support this amendment so that we can keep social security retirement benefits directed to those who really need them.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. CHILES. I yield.

Mr. CURTIS. We had an opportunity to examine the statement of the distinguished Senator from Florida, and I am speaking for the manager of the bill also. We are willing to take the amendment.

Mr. CHILES. I think this could be a cost-saving amendment. I think it is also fair that it be determined on this basis.

I thank the distinguished ranking minority member, and I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

UP AMENDMENT NO. 1068

(Purpose: To freeze minimum benefit.)

Mr. CHILES. Mr. President, I send to the desk another unprinted 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 Florida (Mr. CHILES) proposes an unprinted amendment numbered 1068.

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

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

The amendment is as follows:

FREEZE OF THE MINIMUM BENEFIT AT THE DECEMBER 1978 LEVEL

In lieu of the matter proposed to be inserted by section 104(a) as a new subparagraph (C)(i) of section 215(a)(1) of the Social Security Act, insert the following:

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than—

"(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the higher multiple of $1, or

"(II) an amount equal to $9 multiplied by the individual's years of coverage in excess of 10,

whichever is greater. No increase under subsection (i) shall apply to the dollar amount specified in subdivision (I) of this clause.".

Paragraph (3) of section 104(g) is amended by striking out everything that follows "sentence" and inserting in lieu thereof a period.

Mr. CHILES. Mr. President, I am offering an amendment to freeze the minimum benefit at the level of $121 which it is expected to reach on January 1, 1979. This is the same provision which passed the House without controversy last week. The Congressional Budget Office estimates this amendment will save $193 million between now and 1983.

The minimum benefit is a classic example of the need for sunset legislation. It was a good idea when first adopted, but it has outlived its purpose. The original intent of the minimum was to provide a floor for low-wage workers and to keep the Social Security Administration from having to write checks for very small amounts. Several events have eliminated these needs. In 1972 Congress created a special benefit structure for persons with many years of work at low wages, thus meeting the primary need for a floor on benefits. At the same time we created the supplemental security income program which takes care of low-income elderly, including those persons with only a few years of work history. Benefits under both of these provisions greatly exceed the social security minimum benefit. Finally, the age of computers makes it easy to apply the benefit computation formulas at any level and issue an appropriate check.

As conditions and benefit structures have changed, two types of individuals have emerged as recipients of the minimum benefit. First, we have individuals who work most of their adult life in government jobs which are not covered by social security. Since their jobs are not

covered, they do not contribute to the trust funds. However, many government pension systems, including the Federal one, have generous provisions for early retirement. As a result, government workers may retire while they are still active and healthy, work a few years in private jobs covered by social security, then qualify for the minimum benefit. In these cases, the individual receives a benefit greatly exceeding what he would get based on his actual earnings and contribution to the trust fund. Of course he is also double dipping by drawing down his government pension in addition to the $1,400 a year in social security. While I think we should encourage older workers to keep working if they are healthy and active, we ought not to burden the system with paying benefits to persons who have not made an appropriate contribution.

Mr. President, I believe we really ought to freeze the minimum benefit for current beneficiaries and eliminate it for future retirees. The future recipients are not those who have put in long years of work and contributed to the trust fund in the expectation of receiving a specified level of social security benefits. However, when Mr. CORMAN offered that as an amendment in the House, it was defeated. I am therefore offering the same provision as in the House bill, which provides a very gradual transition, simply letting the value of the minimum benefit erode by excluding it from the provision that automatically increases benefits to match price changes.

I think the House was also wise to increase the special minimum benefit from $9 to $11.50 per covered year. In contrast to the regular minimum benefit, the special minimum only covers persons with over 10 years of covered employment. It is thus protected against double dipping or from providing benefits to persons with a minimal attachment to the work force. The $9 multiplier has not been updated for inflation since the original amendment was adopted in 1972. However, since the House provision would not take effect until 1979, it would be out of order under the Budget Act. I feel very strongly that we should not be circumventing the budget process by passing future benefits that have not competed against other needs and priorities in the deliberations on the first budget resolution. I have therefore omitted that provision from my amendment and hope that we will be able to adopt it next year.

Mr. President, I hope my colleagues will join me in adopting this cost-saving improvement.

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

Mr. CHILES. I yield.

Mr. CURTIS. I believe this is a good amendment. I talked it over with the distinguished manager of the bill, and we are willing to take this one also.

Mr. CHILES. I thank the distinguished ranking minority member.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

UP AMENDMENT NO. 1069

(Purpose: To correct a technical error in the bill.)

Mr. NELSON. Mr. President, I send to the desk a technical amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) proposes an unprinted amendment numbered 1069.

The amendment is as follows:

In section 124(b) of the bill, strike out "3102, 3111," and insert in lieu thereof: "3301, 3302,".

Mr. NELSON. Mr. President, this changes numbers in the bill. And it has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

UP AMENDMENT NO. 1070

(Purpose: Relating to coverage under medicare of certain devices which are designed to serve the same or similar purpose as that performed by a wheelchair.)

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment numbered 1070.

At the appropriate place in the Act, insert the following new section:

COVERAGE UNDER MEDICARE OF CERTAIN DEVICES SERVING THE SAME OR SIMILAR PURPOSE AS THAT PEFORMED BY A WHEELCHAIR

SEC. . (a) Section 1861 (s)(6) of the Social Security Act is amended by inserting after the word "wheelchairs" the following: '(and devices designed to serve the same or similar purpose as that performed by a wheelchair)."

(b) The amendment made by this section shall be effective in the case of services furnished after the date of enactment of this Act.

Mr. GRIFFIN. Mr. President, I have discussed this amendment with the managers of the bill on both sides of the aisle.

This amendment is offered primarily because the bureaucracy in HEW has taken a very arbitrary view interpreting the word "wheelchair" in the Social Security Act as it applies to medicare, and has precluded the coverage of a very fine electric-powered vehicle that is produced in my State specifically for handicapped and invalid people.

The best way to describe what it is is the thing that Margaret Chase Smith used following her operation when she went back and forth from the Senate Office Building over here. Former Senator Charlie Potter had one of these.

They are very maneuverable. They allow a person who is handicapped to get about his home in a dignified way. All handicapped people cannot use them. But it is a great improvement over the wheelchair for many handicapped people.

This amendment is to make it clear to HEW that this should be considered. It is developed and manufactured by a small company in Michigan and the Veterans' Administration has approved it, but the bureaucracy of HEW so far has not.

Mr. President, section 1861(s)(6) of the Social Security Act (now 42 U.S.C. § 1395X(s)(6)), allows for medicare coverage of "durable medical equipment, including . . . wheelchairs used in the patient's home."

Until 1976, the bureaucracy at HEW interpreted the statute to cover the AMIGO wheelchair which is manufactured in Bridgeport, Mich. However, in that year, for no good reason, the regulations were "revised" to preclude the AMIGO wheelchair from medicare coverage.

Because the AMIGO wheelchair is manufactured in my State of Michigan, I have written to officials at HEW on several occasions requesting an explanation for the change in policy. The justification I received can best be characterized as bizarre and ridiculous.

In its reply to my letters, HEW officials refer to the AMIGO wheelchair as a golf cart-type vehicle which could be used by those who are not sick or injured. They also compared the AMIGO wheelchair to room air-conditioners and bathtubs.

This is ridiculous. The AMIGO is not a golf cart-type vehicle; it is used by those who are sick or handicapped and it is used by the patient in his home.

Mr. President, 8 years ago, Allan Thieme of Bridgeport, Mich., designed the first AMIGO wheelchair for his wife, who was suffering from multiple sclerosis and had been using a conventional wheelchair. The AMIGO gives handicapped people more mobility and greater variation of activity than was available with conventional wheelchairs. He accomplished this by making the AMIGO lighter in weight, narrower in width, more maneuverable, and easier to transport than conventional wheelchairs.

As one example of the AMIGO's ability to give the handicapped greater mobility, the chair is equipped with a swivel seat that allows the user to pull up to a normal desk or table and function comfortably without undue awkwardness. In addition, the AMIGO's narrower width allows users to get through doorways—particularly in private homes—that conventional models cannot negotiate.

I first saw the AMIGO wheelchair in operation several years ago when our friend, former Senator Charlie Potter rode one into my Senate office. Senator Potter's enthusiasm for the AMIGO helped to make me a believer. Later, I saw the AMIGO wheelchair used by our former colleague, Margaret Chase Smith, following an operation.

True to the American spirit of building a better mouse trap, the AMIGO has caught on and is being used by several thousand handicapped Americans. It is very strange that the HEW bu-

reaucracy has been so arbitrary in its refusal to make this device available.

It should be pointed out that the AMIGO wheelchair has been approved by the VA for VA beneficiaries. And, it should be noted that the AMIGO has undergone extensive testing at the prestigious Institute of Rehabilitation at New York University Medical Center, and been found superior to conventional wheelchairs for many handicapped persons.

Mr. President, this amendment and this legislative history should make it clear, once and for all, that the AMIGO is a wheelchair within the meaning of the statute.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. GRIFFIN. I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, we had an opportunity to examine the amendment. We believe it is in the interest of the beneficiaries that use these machines as well as the social security fund, and we are willing to accept it.

Mr. GRIFFIN. Incidentally, it will cost less than electric-powered wheel chairs that are now being authorized for payment.

Mr. CURTIS. The distinguished manager of the bill joins me in willingness to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

UP AMENEDMENT NO. 1071

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself and the distinguished Senator from New York (Mr. MOYNIHAN) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. MOYNIHAN proposes an unprinted amendment numbered 1071.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) Section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is amended—

(1) by inserting "(a)" immediately after "Sec. 328.", and

(2) by adding at the end thereof the following new subsections:

"(b) If an honorarium payable to a person is paid instead at his request to a charitable organization selected by payor from a list of 5 or more charitable organizations provided by that person, that person shall not be treated, for purposes of subsection (a), as accepting that honorarium. For purposes of this subsection, the term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1954.

"(c) For purposes of determining the aggregate amount of honoraria received by a person during any calendar year, amounts returned to the person paying an honorarium before the close of the calendar year in which it was received shall be disregarded.

"(d) For purposes of paragraph (2) of subsection (a), an honorarium shall be treated as accepted only in the year in which that honorarium is received.".

(b) The amendments made by subsection (a) shall apply with respect to honoraria received after December 31, 1976.

Mr. DOLE. Mr. President, let me say at the outset this would add a new section to the end of the bill. It is a matter that the Senator from Kansas and the Senator from New York have discussed with the distinguished chairman of the Rules Committee, the Senator from Nevada (Mr. CANNON), and the distinguished ranking Republican, the Senator from Oregon (Mr. HATFIELD). We discussed it with the distinguished Senator from Illinois (Mr. STEVENSON), chairman of the Ethics Committee, and the distinguished Senator from New Mexico (Mr. SCHMITT), the ranking Republican, and with the distinguished Senator from Nebraska (Mr. CURTIS), and the distinguished Senator from Wisconsin (Mr. NELSON), and the distinguished Senator from Louisiana (Mr. LONG).

Mr. President, recent rulings by the Federal Election Commission have placed some unnecessary restrictions on officers and employees of the Federal Government and their compliance with the honorarium provisions of the Federal election law. These restrictions seem to go beyond the intent of the Federal election laws. Therefore, I am offering this amendment with Senator MOYNIHAN, to reverse those rulings.

Before explaining the content of this amendment, however, the reason for offering this as an amendment to the social security financing bill deserves explanation. Of course, this matter is more properly within the jurisdiction of the Rules Committee, but that committee currently has no legislation pending to which these amendments could be attached. However, this legislation is related to matters within the Finance Committee's concern—since a part of this amendment brings the treatment of honoraria for Federal election law purposes into conformity with the income tax treatment of honorarium payments. Likewise, this amendment deals with contributions of honoraria to charities—the term "charities"—being defined according to the terms of the internal revenue code.

By adopting this amendment now the Senate can serve notice on the FEC as to how the Senate feels this should be applied, and give us an opportunity to convince the House conferees on this bill to solve this problem as a part of this legislation, and

I would note that the amendment has been cleared with the distinguished chairman of the Rules Committee and with the distinguished ranking minority member, and that they have no objection either to the amendment or to approaching this problem in this way.

My amendment takes care of three problems within the honoraria area. These three problems concern:

First. The treatment of charitable contributions;

Second. Returning honoraria; and

Third. The question of which year's limit certain honoraria should be counted against. The three parts of my amendment all deal with the question of what items accrue against the limit—and which year they would accrue.

CHARITABLE CONTRIBUTIONS

First, many Senators and Congressmen would like to have honoraria in excess of the statutory limit donated to charity. If the purpose of the limitations on honoraria is to restrict outside—that is non-Senate—income, it would seem to be consistent to allow an employee or official to have the organization paying the honorarium make a direct contribution to a charity selected by the payor from a list of five or more tax exempt charities provided by the official or employee earning the honorarium. This limits the would-be recipient's control and still encourages charitable giving. When I wrote the Senate Ethics Committee on this matter, they seemed to think that this was a reasonable approach to take as well. While their letter did not express a committee opinion, it notes that the FEC had informally advised that this would be proper.

Unfortunately, the FEC later disagreed in a formal written opinion. The amendment would overturn that decision and would allow an officeholder to have the payor make a direct contribution to a charity to be selected by the payor from a list of five or more charitable organizations provided by the official or employee. I believe that this is consistent with the intent of the honorarium restrictions.

Mr. President, I ask unanimous consent that copies of the Ethics Committee letter, the FEC advisory opinion on charitable contributions, two other FEC advisory opinions which I will refer to shortly, and the heading from the honoraria reporting form which demonstrates another point I will make, be included in the RECORD following my remarks.

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

RETURNING HONORARIA

Mr. DOLE. The second part of my amendment goes to whether an employee or official can return an amount equal to the honorarium during the same calendar year and avoid counting the honorarium against the limit. The FEC has ruled that you cannot so return it. Their interpretation stems from the language of the statute, prohibiting the "acceptance" of more than the honoraria limit.

Now, a literal interpretation of the word "accept" might leave a person to think that by taking and later returning the honorarium, he would have "accepted it" within the meaning of the statute. Certainly, that is one reasonable literal interpretation of the English used in the statute. Reasonable, that is, if you ignore the purpose of the law. My amendment would change the statute to make it clear that a person can return an amount equal to the honorarium to an organization and that the honorarium would not then count against the limit.

Once again, this is only within the realm of reasonable practice and there is no reason why the statute should not reflect that.

Never, in my wildest dreams, did I ever imagine that an honorarium returned during the same calendar year would still count against the limit.

CASH BASIS VERSUS ACCRUAL BASIS

The third part of my amendment would overturn another FEC interpretation which says that an honorarium counts against the limit during the year in which the speech was actually given, rather than during the year in which the honorarium is received. The amendment changes that and says that it would count against the year in which the honorarium was actually received.

Mr. President, this aspect of the law has been the source of considerable confusion. In checking with various individuals familiar with these restrictions, some of them were unaware of the fact that it would count against the limit during the year in which the speech was actually given. In fact, the reporting forms which have been used by the Secretary of the Senate for reporting honorarium, clearly state that the yearly report should cover honorariums received during the calendar year. The Senator agrees that this is the more reasonable interpretation. While it may be argued that this form does not directly say that an honorarium counts on the date that payment is received—it does imply just that.

However, the FEC insists in an advisory opinion, that it must count against the year in which the speech was given. Basically, what the FEC has done is put us on an accrual basis for reporting honorarium rather than a cash basis which would seem to make more sense. Since most of us pay our taxes on a cash basis, it makes sense that we should account for honoraria on that basis as well.

SUMMARY

These amendments would have the effect of clearing up an area of confusion and doubt. This amendment takes care of a relatively narrow problem—it does not increase the amount of honoraria which an employee or official can earn and keep.

This amendment is simple, noncontroversial, and should bring the application of the honorarium restrictions back into the realm of commonsense. I urge its adoption.

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

SELECT COMMITTEE ON ETHICS,
Washington, D.C., June 7, 1977.

Hon. BOB DOLE,
Washington, D.C.

DEAR SENATOR DOLE: We refer to your letter of May 24, 1977 requesting further explanations of FEC regulations pursuant to the Federal Election Campaign Act limitation on the honoraria Members may accept in a calendar year. Under those regulations Members may earn honoraria in excess of $25,000 in a calendar year if donated to charity and the Member does not accept the honoraria. The organization in lieu of paying the honoraria makes a direct contribution to an exempt organization selected by it.

You ask if a Senator provides the organization with a list of exempt organizations he particularly supports, allowing the organization to make a direct contribution to an exempt organization on that list, whether that exempt organization would be considered to have been selected by the contributing organization or the Senator?

In response to a telephone request for clarification, a representative of the Federal Election Commission advised Ethics Committee staff that the selection of no fewer than five organizations of interest to a Member, from which the donor organization makes its own selection, would be a reasonable procedure in conformity with the intent and purpose of their regulation.

However, your question is not within the jurisdiction of this Committee. It may be so after January 1, 1979, when Rule 44 takes effect. We suggest therefore, that you seek an authoritative answer from the Federal Elections Commission.

With best wishes.

Sincerely,

ADLAI STEVENSON,
HARRISON SCHMITT.

FEDERAL ELECTION COMMISSION,
Washington, D.C., July 25, 1977.

Hon. BOB DOLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letter of June 20, 1977, requesting an advisory opinion pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). Your request concerns the Commission's regulations relating to 2 U.S.C. § 441i which limits the amount of honoraria that may be accepted by Federal officeholders.

Your letter presents the situation where, in lieu of taking an honorarium for a speech or appearance before a particular organization, you provide the organization with a list of tax-exempt organizations which you support and "allow the organization to make a direct contribution to an exempt organization on that list." You ask whether, in those circumstances, the exempt organization which receives the contribution would be considered to have been selected by the organization making the contribution in lieu of an honorarium, or by you.

As you know, 2 U.S.C. § 441i limits the amount of honoraria that elected or appointed officers or employees of the Federal Government may accept. Under § 110.12(b)(5) of the Commission's regulations an honorium is accepted if:

there has been actual or constructive receipt of the honorarium and the Federal officeholder or employee exercises dominion or control over it. A Federal officeholder or employee is considered to have accepted an honorarium (i) if he or she actually receives it and determines its actual use, or (ii) he or she directs that the organization offering the honorarium give the honorarium to a charity or other beneficiary which he or she names, but (iii) an honorarium is not accepted if he or she makes a suggestion that the honorarium be given to a charity or other like beneficiary of the organization's own choosing. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Code. (Emphasis added.)

This language indicates that an honorarium will be "accepted" if the officeholder selects the charity which should receive a charitable donation from the organization before which the officeholder makes an appearance or speech. If the organization itself makes the selection, no "acceptance" of an honorarium by the officeholder has occurred.

In response to your specific question the Commission concludes that if you direct or state a preference that the organization donate to one or more charities on a list provided by you, the selection would be made by you. In that event you would have "accepted" the honorarium for purposes of the cited provisions of the Act and regulations.

The Commission expresses no opinion as to the Federal tax ramifications of the described transaction, nor as to the possible application of Senate Rules, since those issues are within the respective jurisdictions of the Internal Revenue Service and the Senate Select Committee on Ethics.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. § 437f.

Sincerely yours,

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

FEDERAL ELECTION COMMISSION,
Washington, D.C., September 23, 1977.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: This is in response to your letters of July 28 and August 30, 1977, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the receipt of honoraria by a Federal officeholder.

Your letters indicate that, as an elected Federal officeholder, you received in 1977 but subsequently returned all or some portion of honoraria for appearances which you made before various organizations. The initial receipt of the returned honoraria has caused you to reach your annual statutory limit of $25,000 for 1977. You ask whether the honoraria, having been received but returned, must be considered as "accepted" under 2 U.S.C. § 441i and § 110.12 of the Commission's regulations.

The Commission concludes that the honoraria limits of the Act are to be charged or "used-up" once each honorarium is accepted, regardless of a subsequent decision to return the honorarium.

The regulations define the term "accepted" as the "actual or constructive receipt of the honorarium" where "the Federal officeholder or employee exercises dominion or control over it." Section 110.12(b)(5). In addition, the regulation provides that "[a] Federal officeholder . . . is considered to have accepted an honorarium (i) if he or she actually receives it and determines its subsequent use . . ."

The Commission has concluded in past advisory opinions that for purposes of the calendar year limits on the acceptance of honoraria, an honorarium shall be treated as accepted when the right to receive the honorarium becomes fixed. See AO 1975–89 and AO 1975–93, copies enclosed. Your "actual . . . receipt" of the honoraria, plus your "exercise [of] dominion and control over it," was evidence of its "acceptance." At the time of receipt you were in the position of determining the honorarium's "subsequent use" and were free to dispose of it as you in your discretion saw fit.

The Commission notes that the situation you present—where an officeholder "accepts" an honorarium, and subsequently decides to return it, for whatever reason—is distinguishable from the situation where there was never any "acceptance" in the first instance such as where the officeholder declines an honorarium, receives it anyway, but then immediately returns it to the payor organization.

The Commission expresses no opinion as to the Federal tax ramifications of the described transaction, nor as to the possible application of Senate Rules, since those issues are within the respective jurisdictions of the Internal Revenue Service and the Senate Select Committee on Ethics.

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act, or prescribed as a Commission regulation, to the specific factual situation set forth in your request. See 2 U.S.C. § 437f.

Sincerely yours,

THOMAS E. HARRIS,
Chairman for the
Federal Election Commission.

[Federal Register, Vol. 41, No. 7—Jan. 12, 1976]

ADVISORY OPINION 1975-89

TREATMENT OF HONORARIUMS EARNED THOUGH NOT YET RECEIVED

This advisory opinion is rendered under 2 U.S.C. § 437f in response to a request for an advisory opinion which was submitted by Congressman Mike McCormack, which was published as AOR 1975-89 in the November 4, 1975, FEDERAL REGISTER (40 FR 51356). Interested parties were given an opportunity to submit written comments relating to the request. No comments were received.

The request generally asks whether under 18 U.S.C. § 616, an honorarium is accepted by a Federal officer or employee on the date the honorarium is earned or on the date the honorarium is received. This request for clarification was made in particular with reference to the portion of 18 U.S.C. § 616 which provides:

"Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—* * *

"(2) accepts honorariums * * * aggregating more than $15,000 in any calendar year; shall be fined not less than $1,000 nor more than $5,000."

This provision clearly limits the aggregate of honoraria which may be accepted in any calendar year for an appearance, speech, or article. The question then arises as to when an honorarium is considered accepted for purposes of the calendar year limitations provided in 18 U.S.C. § 616. It is the opinion of the Commission that, regardless of when the honorarium is actually received by the Federal officer or employee, it shall be treated as accepted for purposes of the $15,000 aggregate limitations, in the calendar year when the officer or employee has completed the appearance, speech, or article for which the obligation or promise (whether or not legally enforceable) to pay an honorarium arose.

This conclusion is based upon use or the statutory term "accepts," rather than receives, which former term contemplates an accrual approach to honorariums. Under the accrual concept, as it has developed under the Federal tax laws, the year when an honorarium is regarded as accepted is the year when it is realized, even if it is not then actually received. Thus it is the right to receive and not the actual receipt that determines when the honorarium is accepted. When the right to receive an honorarium becomes fixed, the honorarium is accepted. Accordingly, an honorarium is to be considered as accepted in one calendar year when there is justification for a reasonable expectation that the honorarium will be paid in due course, even if in a subsequent year.

This rule for determining when an honorarium is accepted clearly accords with the Commission's conclusion in AO 1975-93.[1] In AO 1975-93, the Commission held that an honorarium of $2,000 which was promised for a speech made in 1974, could be received in 1975 without violating the limitations of 18 U.S.C. § 616 since "had she [the Federal officer] been paid in 1974, it would not have come within the restrictions of § 616."[2]

This advisory opinion is issued only on an interim basis, pending the promulgation by the Commission of rules and regulations, or policy statements, of general applicability.

Dated: January 5, 1976.

NEIL STAEBLER,
Vice Chairman for the
Federal Election Commission.

HONORARIA REPORTING FORM INSTRUCTIONS

3. HONORARIUMS

List each honorarium of $300 or more received by you during 1976 for any appearance, speech, or article. If none, write none.

Do not include amounts accepted for actual travel and subsistence expenses for you and your spouse or an aide and excluding amounts paid or incurred for any agents' fees or commissions.

If the honorarium service was arranged through a speaker's bureau, disclosure of the source requires that the sponsor of the event be identified as the payer. The speaker's bureau may be the conduit for payment but is not the real payer.

If you are entitled to receive an honorarium and directed that it be paid to a charity, church, or school of your choosing, you still must report receipt of the honorarium.

Note that by law an elected or appointed officer or employee may not accept an honorarium of more than $2,000 (excluding certain incidental expenses) or honorariums aggregating more than $25,000 in a year.

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

Mr. DOLE. I yield.

Mr. CURTIS. As stated by the distinguished Senator from Kansas he has cleared this with a number of chairmen and ranking minority members of committees somewhat involved.

The distinguished manager of this bill and I both join in accepting the amendment. We believe it a wise and fair amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

AN IMPORTANT IMPROVEMENT IN THE DELIVERY OF SOCIAL SECURITY BENEFIT CHECKS

Mr. PELL. Mr. President, I am delighted that H.R. 9346, the social security refinancing bill we are debating here today, contains an important measure, which I introduced earlier this session, to improve the delivery of social security checks to millions of beneficiaries.

This early check delivery amendment, contained in section 126 of the committees bill, would change the statutes to provide that where the ordinary delivery date for a social security retirement, disability, or SSI check falls on a weekend or on a Monday national holiday, the check shall be mailed and dated so as to arrive early, on the preceeding Friday. In this way, the millions of beneficiaries of these vitally important programs can cash and use their checks on time, rather than 2 or 3 days late.

This section of the committee bill derives from S. 543 a bill which I introduced along with Senator HATHAWAY and many other cosponsors on January 31 of this year. Another section of that bill, which provides similar early mailing regulations for veterans benefit checks, has already passed the Congress and has been signed into law by the President. I would urge my colleagues to support this bill including this early check delivery provision, and I hope that before to long we will have enacted a comprehensive and, on the part of millions of beneficiaries very much welcome, reform of benefit check delivery practices.

Mr. BARTLETT. Mr. President, the bill presently before us purports to address the financing problems of the social security system. The bill, however, is simply a tax increase with provisions to dip into general revenues should the system again have serious financial difficulties. This is not a solution to the system's problems. By increasing the taxes, Congress invites future flagrant abuses in the nature of additional benefit programs which have no relationship to the original purpose of social security. The addition of these very types of programs is the cause of the existing fiscal difficulties with the system.

A number of my colleagues have spoken out against the hasty consideration of this legislation, and I would like to associate myself with these remarks.

The social security system has become the resting place of many programs which are totally unrelated to the protection of this Nation's senior citizens. These are programs which are more related to our social welfare programs but have been included under social security. These include such things as disability income and medicare. It is my belief that to recommend significant tax increases contained in this legislation without addressing the whole array of welfare programs, both within and without the social security system, continues the tenuous basis on which social security has come to rest.

Before we raise taxes on employers and employees, we should consider separating out those programs which are unrelated to the security of senior citizens. These programs should be specifically identified to the voters in committee hearings of both Houses and on the floor in extended debates.

There are several provisions which I believe are well founded, and which I congratulate the Finance Committee for addressing. These specific sections are:

(A) The decoupling provision which was necessitated by previous errors on the part of Congress. The Committee has acted to correct this provision, and I congratulate them for their expeditious action.

(B) The inclusion of provisions to delete sections which treat men and women differently under the Social Security Act.

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[1] 40 FR 58394, December 16, 1975.

[2] Supra. Consideration should also be given to AO 1975-8, 40 FR 37646 (August 21, 1975) in which the Commission discussed "what action by a Member of Congress constitutes acceptance of an honorarium."

These two select provisions do not overshadow the major problem with the legislation. The tax increases fly in the face of general public attitudes about the system. I have received many telephone calls in my State and Washington offices against the tax increase, and my mail has been overwhelmingly against the increase.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a copy of a survey done by Cities Service Co. on the social security proposals. This survey is representative of the type of mail I have been receiving. The figures in the survey concerning the use of general revenues to finance the system, the payment of a larger portion of the tax by employers, the increase in the tax, and the discontinuance of the system are particularly significant.

The Cities Services employees, and the public, are not only skeptical, but incensed at the continued expansion of programs under the social security system. This expansion of programs has led to continued tax increases which lag behind the actual expenditures for benefits.

I would like to make one last point. Mr. President, I ask unanimous consent to have inserted at this point a copy of two pages from an informational bulletin published by the Social Security Board in 1936.

My colleagues should note that under the section entitled "Taxes" the rates are explained, and at the end of the subsection entitled "Your part of the tax" the following statement is made: "That is the most you will ever pay." Mr. President, this is only one of many broken promises to the American public, and I believe that the voters of this Nation recognize the folly in our present action.

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

TULSA, OKLA.,
September 14, 1977.

HON. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Recently, Cities Service Company mailed the enclosed article on proposed Social Security legislation, along with a questionnaire, to its employees and annuitants.

The results of the enclosed survey represent the opinions of our employees and annuitants and are not intended to reflect the position of Cities Service.

To date, more than 500 responses have been received from persons residing in over 200 communities in 33 states. Response to the questionnaire was voluntary and not structured so as to represent a scientific sampling. Nevertheless, I feel that these opinions received from such a wide area, may be of value to you.

Sincerely,

R. C. MOORE.

Cities service employees and annuitants voice their opinions on social security

[In percent]

Do you favor	Yes	No	Undecided
Decoupling, to eliminate compensating retirees doubly for inflation	64	21	15
Using general revenue funds from the Treasury to help pay cost of social security	31	53	16
Employers paying a larger tax to help pay for social security	12	67	21
Increasing tax on both employees and employers	32	50	18
Discontinuing present social security system, after current obligations are met, and replacing it with a voluntary program	46	40	14

In summary, Cities Service respondents favor only one of President Carter's Social Security proposals, i.e., "decoupling." Respondents sharply oppose the President's proposals to increase taxes on employees or employers and are also in opposition to the use of general revenue funds for Social Security. These measures are two of the key elements in the President's legislative package.

In addition to responding with opinions on current legislative proposals, respondents also took the time to write additional comments regarding what they felt should be done to improve the "System." The major suggestion, made by 32 percent of those commenting, was to make the Social Security system function as it was originally intended, i.e., balance inflow and outflow. Respondents felt that this could be accomplished by:

(1) paying contributors only—not survivors, disability cases, etc., and

(2) stopping benefit increases until Social Security is brought under control

THE GENERAL CONSENSUS

Cities' employees and annuitants who responded favor "decoupling." It is estimated that this action could reduce the system's projected deficit by 50 percent. Of the realistic alternatives remaining—namely, either raising taxes and/or cutting back benefits, respondents favor reduced benefits over increased taxes.

SECURITY IN YOUR OLD AGE

(To employees of industrial and business establishments—factories, shops, mines, mills, stores, offices, and other places of business.

(Beginning November 24, 1936, the United States Government will set up a Social Security account for you, if you are eligible. To understand your obligations, rights, and benefits you should read the following general explanation:)

The same law that provides these old-age benefits for you and other workers, sets up certain new taxes to be paid to the United States Government. These taxes are collected by the Bureau of Internal Revenue of the U.S. Treasury Department, and inquiries concerning them should be addressed to that bureau. The law also creates an "Old-Age Reserve Account" in the United States Treasury, and Congress is authorized to put into this reserve account each year enough money to provide for the monthly payments you and other workers are to receive when you are 65.

YOUR PART OF THE TAX

The taxes called for in this law will be paid both by your employer and by you. For the next 3 years you will pay maybe 15 cents a week, maybe 25 cents a week, maybe 30 cents or more, according to what you earn. That is to say, during the next 3 years, beginning January 1, 1937, you will pay 1 cent for every dollar you earn, and at the same time your employer will pay 1 cent for every dollar you earn, up to $3,000 a year. Twenty-six million other workers and their employers will be paying at the same time.

After the first 3 years—that is to say, beginning in 1940—you will pay, and your employer will pay, 1½ cents for each dollar you earn, up to $3,000 a year. This will be the tax for 3 years, and then, beginning in 1943, you will pay 2 cents, and so will your employer, for every dollar you earn for the next 3 years. After that, you and your employer will each pay half a cent more for 3 years, and finally, beginning in 1940, twelve years from now, you and your employer will each pay 3 cents on each dollar you earn, up to $3,000 a year. That is the most you will ever pay.

Mr. ROTH. Mr. President, there is no question that action must be taken to restore financial stability to the social security trust fund. Social security is the first and major ingredient for financial security for many of our senior citizens and it is absolutely necessary for steps to be taken to save the system.

However, I am deeply concerned that the proposed legislation is not the right answer to our social security problems.

Because of the amount of time spent on the energy bill, neither the Finance Committee nor the Senate had enough time to adequately consider this bill and to explore the whole range of alternatives.

For example, I proposed an amendment to use a portion of any new energy tax revenues to help the social security system. This amendment could have allocated billions of dollars to the social security trust fund, and reduced the need for social security taxes proportionately.

There are more than 100 million people paying taxes to support the social security system, and my amendment would have provided some tax relief to all of them while still restoring financial stability to the trust fund.

Unfortunately, the Senate refused to accept my amendment to ease the tax burden on working Americans.

I am concerned the substantial tax increases will have a devastating impact on the economy. In addition, I fear the higher tax burden will edore the public's support for the social security system and put pressure on Congress to reduce, or at least not increase, social security benefits for senior citizens.

Therefore, I cannot support this bill. I believe Congress should go back to the

drawing boards and make this the first order of business.

INCREASED PAYROLL TAXES NOT A GOOD METHOD FOR FINANCING SOCIAL SECURITY

Mr. McGOVERN. Mr. President, while I fully support the need to restore financial integrity to our social security system and while I strongly favor providing ample assistance to those who have contributed to this system, I nonetheless will be casting a symbolic vote against H.R. 9346, the Social Security Financing Amendments of 1977. I register a "no" vote because of my conviction that the additional cost of social security should be covered by general revenues—not by additional payroll taxes on workers and employers.

Earlier this week, I joined with 15 of my colleagues in an unsuccessful attempt to move the financial footing of the system away from exclusive reliance on payroll taxes. My distinguished colleague from Missouri (Mr. EAGLETON) moved to recommit this bill to the Finance Committee with instructions to report back a bill to authorize appropriations out of general revenues to cover not less than 4 percent of the total cost of the bill. This, of course, was a version of the administration's proposal to introduce general revenue funds as one source of the funds which would be used to shore up the financial foundation of the system. The administration proposal was criticized as turning social security into another welfare program and not the insurance system that it was intended to be. That it would destroy a person's sense of paying for their own retirement. Given the reality that those presently paying into the system are paying the benefits of those already retired, it is not clear how the use of general revenue funds would change this.

It seems to me that the more important point to raise is that continued reliance on the payroll tax will have increasingly negative impacts on our economy. Increasing payroll taxes will both add to inflationary pressures and will aggravate unemployment. I would note that we are not doing well on either of these fronts even without the additional stress of higher payroll taxes. Most economic forecasts are for much reduced growth in the months ahead. Already this week, we have been advised that the wholesale price index is again spurting upward and the unemployment rate for October was up a tenth of a point; again to the 7 percent level.

What will be the consequence of higher payroll taxes? Small businessmen in my home State of South Dakota have told me that they will try to pass part of the increase on in the form of higher prices. They would also be forced to reduce their labor force. For employees the increase will result in less disposable income and presumably less spending which will also act to slow the economy.

There has been increasing speculation that the administration will find it necessary to propose a tax cut early next year to revive the economy and that this in turn will tend to offset the drain of $10 billion caused by the increases proposed in the bill before us. This is really only a round about way of using general revenue funds to support social security financing. One final, but very important point in this connection is that the income tax is a far more equitable way of financing than are the regressive payroll tax. I firmly believe that we must turn away from our increasing reliance on payroll taxes and toward the use of general revenue funds to finance our social security system.

In closing, I want to indicate my strong support for one particular aspect of the bill before us. That is the amendment of my colleague from Idaho (Mr. CHURCH), which will increase the earnings limitation. I believe that it is entirely proper that some upward adjustment be made to reflect the reduced purchasing power that these additional earnings represent in an economy subjected to continued inflation.

While the financial integrity of the system has been reestablished, we must certainly contemplate moving it away from its reliance on higher and higher payroll taxes.

Mr. CHURCH. Mr. President, reluctantly, I must vote against the bill for the same reasons that led me to favor the motion to recommit the bill yesterday.

I ask unanimous consent that the explanation I gave at that time be inserted here in the RECORD.

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

I oppose this legislation. I will vote to recommit it because it provides for a huge tax increase—one of the largest in history—and a highly regressive tax, at that. The Social Security tax, like the sales tax, falls hardest on those less able to pay.

I recognize that the Social Security System must remain solvent. But I had hoped that it would be possible to fashion a bill that would not only meet the fiscal needs of Social Security, but also accomplish other objectives as well.

For example, this country needs a much-improved comprehensive medical program for the elderly, the handicapped, and the poor. We need a program that eliminates the gaps that now exist between coverage under Medicare and Medicaid.

I feel that Medicare should be removed from the Social Security trust fund and financed, instead, through general revenues. Medicaid is already financed this way, and the two should be blended into a uniform system. General revenues come mainly from the income tax, so that the financing would be made progressive in nature, rather than regressive.

If we were to remove Medicare from Social Security as part of a general overhaul, it would lift a big burden from the Social Security trust fund. That, in turn, would make it possible for us to lower substantially the rate increase contemplated by this bill.

Accordingly, I will cast my vote to recommit this bill and introduce legislation designed to accomplish these objectives soon after Congress reconvenes next year.

Mr. HANSEN. Mr. President, I will vote against final passage of this legislation, because I believe that the proposal of the Finance Committee, while it does much to restore the integrity of the social security system, makes momentous changes in the fundamental philosophy of social security.

At its inception, this program was designed to supplement the incomes of retired workers, through the shared financial contributions of employers and employees. I emphasize this concept of parity, because I believe that that philosophy of sharing gave the program credibility for employees who recognized that they were contributing toward their own futures, and not simply receiving a welfare benefit. During the deliberations on this bill, three attempts were made to restore parity. I supported each, because I believe American workers prefer to believe that they are taking responsibility for their own futures, rather than leaving their own future security to others.

It is regrettable that the Finance Committee and the Senate chose to place a heavier tax burden on employers than on employees. Such action may well put heavy pressure on already burdened employers as they enter into negotiations for future benefits for their employees. Moreover, it suggests to Americans that they do not have a full measure of responsibility to provide for their old age or disability. Because I have faith that Americans do wish to pay their fair share of premiums for the social security insurance programs, I vote against the Finance Committee bill.

I also vote against the bill, because it continues to rely on indexing for its primary benefit formula structure. I would suggest that indexing got the fund into its present straits, so I see no reason to continue to rely on such an unpredictable and unreliable foundation.

Notwithstanding these reservations, I applaud the chairman for having the courage to lead the Senate to restore the confidence of the American people in the social security system.

SOCIAL SECURITY FINANCING

Mr. CHILES. Mr. President, I think it is important that Congress take action to correct the problems in financing social security. However, I am voting against final passage of the bill because I think it was brought out too close to the end of the session for the Senate to give it the kind of careful consideration it deserves. The report of the committee was not even available until after consideration of the bill had begun. The Finance Committee bill involves the first total overhaul of social security financing we have ever made since 1933. It represents the biggest peacetime tax increase in decades. It involves major benefit changes that will affect future year budget deficits by billions of dollars. The Senate has not had adequate time to consider exactly who will be getting the benefits, who will be paying higher taxes and what the economic effects of these changes will be. No other law affects as many individuals directly and indirectly as social security. Practically, all workers, all businesses, all families have their present and future livelihood affected.

I chaired the conference on this year's Congressional Budget Resolution which called for speedy action to correct the flaws in social security financing. For each of the 3 years the Budget Com-

mittee has been in existence, I have succeeded in getting it on record for "decoupling" the benefit structure, which is the major key to restoring the integrity of the trust fund. However, the reason I helped create the congressional budget process was so that we would have an orderly way to consider major changes in taxes and expenditures. All the studies by Congress and the administration have shown that the social security trust fund will still have reserves of over $40 billion by the end of 1978. There would thus be plenty of time to bring the bill up in January and look at these provisions in detail.

The biggest choice that Congress has to make is how to distribute the burden of increased taxes. The Finance Committee bill put a disproportionate share on employers. Unfortunately, that would be an illusory benefit to workers. First of all, most economic studies show that payroll tax increases on employers get passed right on as increased prices and forgone wages. The workers would thus pay the cost, but the mechanism used would have the most rapid possible inflationary effect. Second, the biggest problem we are having with economic recovery at this time is the failure of businesses to invest in new facilities and thus create new jobs. To cut drastically into their cash flow at this point in time would simply delay recovery and cost jobs. That is certainly no benefit to workers.

For these reasons I voted in favor of the amendments offered by Senator CURTIS, which would have provided equal tax rates for employers and employees. If the Senate had been allowed time to consider a full range of alternatives, I would have favored a combination of an equal share between employers and employees, but with a higher wage base and a lower tax rate. That combination would have been the fairest for all parties. I hope the conferees will adopt a version that is closer to that combination.

I have been concerned for a long time that we are undermining the basic social compact of the social security system by paying welfare-type benefits out of the retirement fund. If we can eliminate some of these provisions we an minimize the tax increases necessary to safeguard the trust fund.

I therefore offered two cost saving amendments to the Finance Committee bill and the Senate adopted both of them. At my urging, the Budget Committee has been on record for making these savings for each of the last 3 years, just as we have been on record for decoupling.

The first of my amendments was to freeze the minimum benefit. The minimum benefit is a classic example of the need for "sunset" legislation. It was a good idea when first adopted, but it has outlived its purpose. The original intent of the minimum was to provide a floor for low-wage workers and to keep the Social Security Administration from having to write checks for very small amounts. Several events have eliminated these needs. In 1972 Congress created a special benefit structure for persons with many years of work at low wages, thus meeting the primary need for a floor on benefits. At the same time we created the supplemental security income program which takes care of low income elderly, including those persons with only a few years of work history. Benefits under both of these provisions greatly exceed the social security minimum benefit. Finally, the age of computers makes it easy to apply the benefit computation formulas at any level and issue an appropriate check.

As conditions and benefit structures have changed, two types of individual have emerged as recipients of the minimum benefit. First, we have individuals who work most of their adult life in government jobs which are not covered by social security. Since their jobs are not covered, they do not contribute to the trust funds.

However, many government pension systems, including the Federal one, have generous provisions for early retirement. As a result, government workers may retire while they are still active and healthy, work a few years in private jobs covered by social security, then qualify for the minimum benefit. In these cases, the individual receives a benefit greatly exceeding what he would get based on his actual earnings and contribution to the trust fund. Of course he is also "double dipping" by drawing down his government pension in addition to the $1,400 a year in social security. While I think we should encourage older workers to keep working if they are healthy and active, we ought not to burden the system with paying benefits to persons who have not made an appropriate contribution.

Mr. President, I believe we really ought to freeze the minimum benefit for current beneficiaries and eliminate it for future retirees. The future recipients are not those who have put in long years of work and contributed to the trust fund in the expectation of receiving a specified level of social security benefits. However, when Mr. CORMAN offered that as an amendment in the House, it was defeated. I am therefore offering the same provision as in the House bill, which provides a very gradual transition, simply letting the value of the minimum benefit erode by excluding it from the provision that automatically increases benefits to match price changes. The Congressional Budget Office estimates that this amendment will save $193 million between now and 1983.

The second amendment I offered was to eliminate the monthly computation of the earnings limit for determining whether an individual is retired. I think we should encourage older people to keep working to the degree that they are still physically able to. More than any economic considerations, the work situation provides a valuable social support that prevents the loneliness and isolation which so many of the elderly suffer. I have long supported increasing the level of allowable retirement earnings in order to encourage continued employment, and I congratulate the Finance Committee for providing significant increases in this bill.

At the same time, I believe it is necessary to be as fair as possible in how we calculate the earnings limit. One flaw in the current law is that it allows an individual to be retired in 1 month, working in another, and so on, without regard to how much is earned in the working months. Many people can regulate their flow of income by reasons of self-employment or ownership of a business. Thus, they can earn $100,000 in 3 months of the year, then "retire" and draw social security benefits for the rest of the year.

They can then go back to work again the next year and repeat the pattern. Social security is for them just a bonus piece of income. At the same time, we tell a salaried employee that we will reduce his benefits 50 percent for any earnings over $3,000. This is obviously unfair and discriminates against the salaried workers who tend to have lower incomes. The Social Security Administration estimates that about 80,000 persons currently avoid the earnings limitation by this mechanism.

My amendment would correct this flaw by calculating the earnings limit on an annual basis. This improvement was recommended by President Carter in his 1978 budget. It was also recommended by the previous administrations in their budgets. It has also been recommended by the social security advisory commission, an independent body that is appointed by the Secretary of HEW to oversee the soundness of the system.

This amendment will save $174 million in fiscal year 1978, $234 million in 1979, and more in later years. If we can cut down on a lot of these flaws in the benefit structure, we can minimize the tax increases necessary to keep the system solvent and pay a decent level of benefits to our retirees.

Mr. President, in order to make sure that the effects of this amendment would truly fall on the upper levels of income. I asked the Social Security Administration to calculate the number of persons at each income level who would have their earnings reduced. I ask unanimous consent to insert a table showing the results in the RECORD at this point:

TABLE I.—*Percent of workers with reduced benefits under annual retirement test, by income (data from 1975)*

[Percent of workers with reduced benefits]

Annual earnings:	
Less than $3,900	1
$3,900–$5,400	6
$5,400–$8,400	20
$8,400–$11,400	26
$11,400–$14,100	14
More than $14,100	32
All workers (total does not add due to rounding)	100

Mr. President, it is clear that no more than 1 percent of the affected workers earn less than the earnings limit of $3,900. That is, 99 percent are using this mechanism to avoid the limits we are imposing on low-income workers who work every month of the year. Even considering the increase in the earnings

limit to $6,000 as provided in this bill, 93 percent of the affected workers would be exceeding the annual limit by means of the monthly compilation.

During consideration of the social security financing bill, I backed the Church substitute amendment to permit higher outside earnings for social security recipients. This provision allows unlimited earnings for those over 70 and strengthens the trust fund's financial condition. I believe the law should permit a more reasonable allowance for outside earnings without affecting social security benefits. If we were to permit every person over 65 access to social security benefits without some earnings limit, we would really be doing a tremendous disservice to the great majority of elderly citizens who have small incomes and rely on social security. We would be placing a tremendous drain on an already overburdened trust fund. The Congressional Budget Office estimated an additional cost to the fund of $3.4 billion in the first year if the earnings test were dropped, a cost that would have to be met either by increased taxes on workers and employers or reduced benefits. What bothers me is that such a provision would make substantial social security benefits available to the person earning $75,000 or $100,000 a year. That certainly is not what we had had in mind when the social security program was created to benefit elderly Americans.

In my view, the law should permit the older citizen the opportunity to earn a reasonable amount without having those earnings affect social security payments. My votes supported efforts to permit higher earnings in 1978 and subsequent years that would not be subject to reduction in social security benefits.

Florida has the largest percentage of persons over 60 years of age in the Nation, so I have great concern for the thousands of elderly citizens who are strapped to fixed incomes which seldom respond to cost of living increases. Costs for food, health care, transportation, electric and water bills—the basic necessities of modern life—have all risen dramatically in recent years.

I believe it is essential that we help the senior citizen cope with such increases wherever possible to assure that the elderly are able to live with dignity and security.

I firmly believe that social security beneficiaries deserve better protection against inflation. This protection would be provided in an amendment I cosponsored to authorize two cost-of-living adjustments each year when consumer prices rise more than 4 percent semiannually.

Twice yearly adjustments in social security benefits would mean those who depend on their monthly checks could keep up with rising prices which hit the elderly the hardest. The amendment would also direct the Secretary of Health, Education, and Welfare to develop a special consumer price index for the elderly to more adequately reflect the impact of inflation on them.

Mr. President, as I stated at the outset, I believe that assuring adequate financing of the social security system is a top national priority. But a top national priority ought not to be dealt with hastily. I believe I have been as diligent as any other Member of the Senate to aid the condition of the elderly. I have taken an active role as a ranking member of the Special Committee on the Aging to investigate the needs and problems of the elderly and have sponsored many amendments to help them with their needs for income, for fuel payments, for nutrition, for safe medical care, for transportation, and for housing.

But no one suffers more from inflation and recession than the elderly. Older workers get pushed out of jobs when unemployment is high. Most pensions and other sources of retirement income are not adequately adjusted for increases in the cost of living. I voted in 1972 to index social security benefits to the cost of living, and this year to make that adjustment twice a year. But for most people social security is only a part of retirement income and the other parts do not have cost-of-living increases built in. For that reason I am voting against final passage of this bill because I do not believe the Senate has had adequate time to consider the economic effects it will have. Even with the adoption of the cost-saving amendments which I sponsored, the bill will add over a billion dollars more to the Federal deficit than was set in the congressional budget resolution for this year. The effect on the deficit in future years will be many billions. Many of the provisions of the bill, and many amendments added on the floor of the Senate, will have inflationary consequences of unknown degree. Pushing ahead with a law that will add to inflation is no favor to either retirees or workers.

Mr. BELLMON. Mr. President, the social security proposals we are now considering include changes that are very much needed. The following are some of the aspects of the Senate Finance Committee's bill that I regard as strong features:

First. The bill would reassure the American people that the social security system is sound. This obviously must be a very high priority goal for the Congress.

Second. The bill would remedy the overindexing of benefits for future retirees, thereby avoiding in future years the payment of unnecessary sums out of the Treasury.

Third. The bill would partially correct the double-dipping problem, by requiring spouses' benefits to be reduced by the amount of any retirement payments under a Federal Government or other public retirement plan.

Fourth. I also favor the elimination of the retroactive lump-sum retirement option and some of the other smaller corrections that the Senate bill would make.

I do have some serious concerns, however, about the bill before us and even greater concern about the process by which we are considering it. Few issues coming before the Congress have the extensive impact on the American people that social security legislation has. Major social security legislation needs concentrated and extended consideration by the entire Senate. Unfortunately, this bill will not receive that kind of consideration. This bill came to us with only 3 days left for normal Senate business in this session. As Senator MORGAN has pointed out, we began consideration of this bill without having either a printed bill or printed report.

Mr. President, yesterday some of us tried to convince the Senate that we should hold this bill until February so we would have time to consider it fully. We are not serving the country as well as we should by proceeding in haste on this important matter. I regret that the majority leader and others chose to accuse us of trying to kill the bill. That was certainly not my motivation, and I believe all Senators recognize that we must soon provide added social security financing. The display of leadership muscle we saw yesterday may get a social security bill passed this month. It will not produce as good a plan as would be possible if we and the public had adequate time to study the Finance Committee's proposals.

Let me turn now to some specific concerns I have about the bill and the potential for action in the House-Senate conference:

First. While the Senate bill as originally reported was consistent with the budget resolution, amendments we have added today now put the bill over the budget. Moreover, the House bill provides for $1.3 billion in added social security taxes in fiscal year 1978. If the conferees were to accept the House position, budget targets which Congress set less than 2 months ago would be breached even more substantially.

Second. I fear that solving the financing problems of social security as this bill proposes will take pressure off Congress and the executive branch to make the kind of review of the benefit side of social security that is required. Both the Senate and the House bills include provisions dealing with spouses' benefits, for example, but neither bill reflects the kind of comprehensive review of those benefits that is needed. The House is committed to an examination of the disability program during the coming months. That part of social security is experiencing runaway costs. The interrelationships between social security and the relatively new supplemental security income program desperately need examination. In short, we ought to be wary of solving the social security financing problems before we address some of the benefit questions that could result in greater equity and lower outlays.

Third. The Senate Finance Committee proposes that the wage base for the employer portion of the social security payroll taxes be more than doubled to $50,000 in 1979 and then increased again to $75,000 in 1985 while the wage base for employee taxes continues to increase in relationship to average wages. This proposal concerns me greatly. We should have no doubts about who will pay the added taxes to be imposed on employers. The general public will pay them in higher prices for goods and services and the employees will absorb part of them

because of lower wage increases, fewer new hires, et cetera. At the very time our economy desperately needs added capital investment, some companies will cancel or delay capital investments because of the added social security costs they will be required to pay. This kind of tax increase impacts most substantially on those private-sector firms which are our highest growth industries. It would also impose substantial burdens on universities, State governments, and other nonprofit organizations. I realize that the choices between higher payroll taxes and a higher wage base for employers are difficult ones. I personally believe either the House bill or the proposal by Senator CURTIS are preferable approaches to the Finance Committee's plan which the Senate is about to adopt.

Fourth. I am very concerned that Congress will produce a bill that almost totally eliminates the earnings limitations in social security. While I recognize that this limitation is considered a serious deficiency in social securiy by many people, totally eliminating the limitation would cost at least $2 billion a year and a very high percentage of the added benefits will go to people with high incomes. Is it fair to tax all workers so we can make social security payments to people over 65 making $25,000 or $50,000, or $100,000, or even more?

Fifth. The possibility of using price-indexing instead of wage-indexing for correcting the overindexing problem deserves more consideration than it has received from the Senate Finance Committee or is likely to get here on the floor. If we adopt the committee's bill, we will be fixing the overindexing problem in a way that is still most generous. I wonder how many Senators have looked at the table on page 21 of the Finance Committee's report. That table shows that the average annual social security benefit in 1977 dollars will rise to $13,978 in the year 2050 under the "price-indexing" approach adopted by the Finance Committee. Data compiled by the Senate Finance Committee staff show that if instead of the "wage-indexing" approach recommended in the Senate Finance Committee bill, a modified price-indexing approach was used, we would need only a very modest tax increase over present law in order to fully fund the social security system. Under this approach, the annual benefit in 1977 dollars for a worker with average earnings would still be in the neighborhood of $9,000 in the year 2050, or twice what it is today. In other words, a modified price-indexing approach would result in a doubling of the purchasing power of social security benefits over the next 75 years. A tax increase averaging only 1 percent each for employees and employers over that 75-year period would be required under this modified indexing approach.

Sixth. Mr. President, I am also very concerned that this bill does nothing about melding the numerous retirement system financed by the Federal Government. The vote in the House overwhelmingly rejecting coverage of public employes by social security shows that we have a long way to go before Congress will correlate and integrate these retirement systems into a more rational pattern. I intend to work with the Budget Committee to keep pressure on this area. We could save billions of dollars in future years by making more sense out of the morass of Federal retirement programs.

Finally, Mr. President, let me turn to some very brief comments on the portions of the committee bill dealing with the aid to families with dependent children program. I do not believe the fiscal relief provisions included in the bill reflect a high priority for use of Federal funds. We are simply giving $400 million to States and localities as a rather unusual form of general revenue sharing. There is no assurance at all that this money will be used to improve services or benefits to AFDC recipients. The administration's position on this provision demonstrates again how whimsical and inconsistent our current executive branch leadership is on its policy initiatives. Up to Tuesday morning of this week, the administration adamantly opposed these fiscal relief provisions. Then Secretary Califano abruptly changed the administration position and endorsed the $400 million give-away that is included in the Senate Finance Committee's bill.

We are not buying any reform with this $400 million. We are simply giving the States a windfall. They need not use it in their welfare programs at all.

The other provisions that have been included in the Senate bill deal with improved quality control, revised work expense and income disregard reductions and work demonstration projects. Most of these seem reasonable provisions and I support their inclusion in the bill.

Mr. President, I continue to harbor the hope that something will happen to slow down this express train which is carrying us toward a hastly constructed, inadequately considered social security financing bill.

Clearly, adjustments are needed in social security financing and in the benefit structure. Regrettably, this bill is fatally flawed.

Mr. President, I voted for recommittal once and will do so again in the expectation that a better bill will be before the Senate at an early date.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Maine, Mr. MUSKIE.

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

STATEMENT BY SENATOR EDMUND S. MUSKIE

As the Senate proceeds with debate on the Social Security financing bill, I would ask my colleagues to pause for a moment and reflect on the role of the budget process and the Budget Committee with respect to this legislation.

The bill reported from the Finance Committee is one of the most significant pieces of legislation to come to the Senate floor this session. The Social Security financing bill is intended to be the major piece of Social Security legislation for the balance of this century. It is undoubtedly the most significant Social Security bill considered since the creation of the Social Security system itself and its economic and fiscal implications will have far-reaching effects for the next thirty years.

It is deplorable that such a major piece of legislation would come to the Senate floor in the last hours of the session for debate with such little time for review and analysis. The bill itself did not become available until after debate on the measure had begun and the printed report was not available to members of the Senate until two days into the debate. This situation was most distressing to members of the Budget Committee and to the Senate as a whole.

Because I was necessarily absent for reasons of health, the senior Senator from South Carolina, Mr. Hollings, has served as Acting Chairman of the Budget Committee during consideration of this measure. Let me say for myself and I am sure for the Senate as a whole, that we owe him an enormous debt of gratitude for his able leadership of the committee on this very critical and complex legislation. Let me also pay tribute to the important role of the Ranking Minority Member of the Budget Committee, Senator Bellmon, whose wise counsel and support were essential during the debate on the Social Security bill.

I firmly believe that the Budget Committee has played an important role in permitting the Senate to proceed in a more orderly fashion and in assembling costly amendments relating to certain segments of the bill in one place for the Senate to consider and compare. Mr. President, let me briefly summarize the involvement of the Budget Committee with this legislation and my assessment of the role of the budget process in the formulation of legislation.

The Finance Committee met Tuesday morning to report out the Social Security financing bill. At that time they reported a resolution to waive Section 303(a) of the Budget Act with respect to consideration of the Finance Committee bill, two alternative amendments to be offered by the Ranking Republican on the Committee, and five other amendments to be offered by Finance Committee members with respect to other provisions in the bill. This waiver was necessary to permit Senate consideration of the bill and the amendments thereto because they provided for increased revenues and new entitlements which first became effective in fiscal 1979, a fiscal year for which no First Budget Resolution has yet been adopted.

The Budget Committee staff had received an advanced copy of the bill the night before and was able to prepare for the membership a memorandum detailing the highlights of the bill. This memorandum served as a basis for a Committee meeting Tuesday afternoon to review the requested waiver. At that meeting, Committee members expressed strong reservations with respect to granting a waiver for costly amendments which would tie the hands of the Budget Committee and the Congress with respect to actions on revenues and entitlements in future years. The Committee agreed to seek guidance from the Leadership and the chairman of the Finance Committee on these matters.

Senators Hollings, Cranston and Bellmon met with the distinguished Majority Leader, Senator Byrd, and the distinguished chairman of the Finance Committee, Senator Long, in an effort to reach agreement on the most orderly way to proceed with consideration of the request from the Finance Committee. It was suggested that the Finance Committee might report out separate waivers for the bill and any important amendments which members of the Finance Committee might seek to raise.

Wednesday morning the Finance Committee met at 9:00 a.m. and reported out a waiver with respect to the bill itself and two alternative amendments from the Ranking Minority Member. This waiver was considered by the Budget Committee within minutes of the conclusion of the Finance Committee meeting and was favorably re-

ported to the full Senate within an hour. Later that day and early on Thursday, several individual Senators introduced waiver resolutions which were referred to the Budget Committee for consideration. Again, the Budget Committee arranged to meet in midafternoon to review the waiver requests transmitted by four senators. After a poll of the Committee which resulted in a tie vote with seven members voting to approve the waiver requests and seven members voting to disapprove the requests, the Committee reported the waiver resolutions back to the Senate without amendment or recommendation. Under these circumstances, it was left to the full Senate to act on these waiver requests. They were approved en bloc by a voice vote.

Looking at these events, I would draw the following conclusions which I would like to share with my Senate colleagues. First, I believe it is important that we understand that the Budget Committee and the budget process is not intended to obstruct the work of the Senate or in any way curtail prompt consideration of legislation. Rather, it is an important tool to aid informed Senate debate and consideration of important legislation.

Review by the Budget Committee of the legislation from the Finance Committee and costly amendments thereto permitted the Senate to proceed with a more orderly debate. The time needed for Budget Committee review and analysis permitted other Senators to examine more carefully the budgetary impact of the bill as reported from the Finance Committee and the report when it finally became available. Let me not be misunderstood, Mr. President. I believe that the Budget Committee acted with dispatch at every juncture. Its meetings were scheduled on short notice, with participation by the majority of the Committee in every decision that was made. Moreover, by grouping the amendments with respect to the earnings limitation in one place, the Budget Committee allowed the Senate to make important comparisons among alternative proposals with respect to this important issue.

Second, it is important to recognize that individual Senators with costly amendments worked closely with the Budget Committee to maintain the discipline of the budget process with respect to these amendments. Because of serious reservations with respect to the refundable tax credits for non-profit organizations, Senators agreed to change the refundable tax credit to an appropriated payment or to establish a differentiation in the rate of tax in order to achieve the same objective.

From the standpoint of sound fiscal policy, the alternative formats allowed greater Congressional control and avoided the backdoor spending which the Budget Act was enacted to preclude. From a procedural standpoint, the alternative formats avoided the need for Budget Act waivers or for the raising of points of order on the floor.

In two other cases, individual senators agreed to modify their amendments so that new entitlements would not have increased out-year costs. These modifications obviated the need for Budget Act waivers and reduced the overall costs of these amendments.

Thirdly, the Finance and Budget Committees worked together very closely to examine the consequences for the federal budget of the legislation and the amendments thereto. It is no secret that the distinguished gentleman from Louisiana and I are not always in agreement as to the means to achieve sound fiscal policy. In this instance, however, we both agreed that a delay in changes in financing the Social Security system was essential to permit the economy adequate time to recover from the serious recession of the last few years.

In summary, the review by the Budget Committee of the bill and its amendments permitted the entire Congress more time to examine closely this legislation which will set the pattern for all Social Security payments and taxes for the next quarter century. If this were the only thing we achieved, we could be justly proud. But I firmly believe that we have done more than that. The Committee and the process are still alive and well. The budget process has served the Senate and other committees as a means to examine and to compare costs of one provision against another. Reflection and comparison is critically important if the Congressional budget process is to establish a sound fiscal policy and to project Congressional needs and priorities for the coming fiscal year.

We do not lightly waive the constraints of the Budget Act on future year spending. It is only in the most extraordinary cases that such waiver should be granted to permit consideration of a Committee's bill and amendments thereto on the Senate floor. In this case, the Budget Committee had earlier determined that a delay in financing in the Social Security system was essential to assure the sound economic footing of the country prior to the imposition of new payroll taxes.

With this understanding, we proceeded to consider closely the bill as reported from the Finance Committee and amendments thereto. The Budget Committee then acted favorably on the waiver request from the Finance Committee. Upon reviewing individual amendments which senators wanted to offer, the Committee was divided on a 7–7 vote and determined that it should report them back to the Senate without recommendation and permit the Senate to work its will on these waiver resolutions.

I hope in the future, Mr. President, that when a bill of this magnitude comes to the Senate that the Budget Committee will be permitted time to review it in a more deliberate fashion. Within the time constraints placed on the Budget Committee, I believe that the Committee did an outstanding job and provided a great service to the Senate and to the Congress in permitting the debate to focus on current, as well as out year implications for costly and controversial measures.

In closing, Mr. President, let me make it clear that the review of the Budget Committee is not intended to pass judgment on the substance of any amendment, or the legislation itself. The Budget Committee does not want to become a Rules Committee or an authorizing committee. We view our role as simply that of a watchdog for the Congress in reviewing the budgetary impact in both the short and long-term of all important legislation which the Congress must consider. It is on those grounds, and those grounds alone, that our decisions must be made. If we are not free to exercise this responsibility without undue pressure from other members of this body, then the role of the Committee is subject to serious question.

But I believe that the debate of the last several days has shown that the Budget Committee serves an important purpose. The Budget process is working and the Senate is conscious of the need for sound, orderly debate on matters of significant budgetary and economic impact.

For myself, Mr. President, I must say that I am sorely distressed that the cost of the Social Security bill has risen so markedly during this debate. We now find that this bill could exceed the Finance Committee's allocation under the budget resolution by more than half a billion dollars.

I certainly favor the Social Security system as an insurance system for older Americans and fully support legislation to restore the program to fiscal soundness. But the adoption of costly and unsound floor amendments has produced a bill that is fiscally irresponsible. For these reasons, Mr. President, I cannot support this bill and would vote against it if I were present.

Mr. STEVENSON. Mr. President, I recognize that the social security system must be adequately funded. But I am not convinced that this bill represents the best way to do it. As a matter of fact, none of us can be certain what this bill does. The committee report was not made available until after the Senate began consideration of the measure. And since then amendments have been approved which will add substantially to the costs of the system. If this legislation is sound, it is only by coincidence. All we really know is that its economic consequences for the Nation are substantial. And the new system, sound or unsound, will be locked in for many years to come.

I am inclined to think the system proposed is unsound. The costs are high, and so are the taxes. They will raise the cost of labor and in some measure cause a further increase in unemployment. It would be best to take some part of general revenues to defer the high cost of this system. It is established for the benefit of the Nation and not alone for its annuitants. It is not unreasonable, therefore, to demand of the Nation that it pay a part of the direct costs. But that avenue will now be shut for a long time to come. With new general revenues, as for example from an increased gasoline tax, the Nation might fund this system with economic benefits and not the economic costs which will be occasioned by a substantial hike in payroll taxes.

I have heard it said many times that the Senate must act now, in haste and amidst all the clutter of these late hours because it cannot be expected to act responsibly next year, an election year. To that I have to say that the chance of next year's irresponsibility is no warrant for this year's.

Mr. DOMENICI. Mr. President, the Senate has now completed its consideration of the 1977 amendments to the Social Security Act. As we prepare to vote on this bill I would like to take just a few minutes to explain my reasons for voting against this measure.

I object to the way this bill was handled. This bill is probably the biggest tax measure to come before the Senate in the 5 years I have served here. Yet it came to us on the same day the Finance Committee reported it. It came to us unprinted and it was not until 2 days later that the accompaning report became available to the Members. Mr. President, this is no way to legislate and it is especially no way to enact a tax proposal that will raise $200 billion over the next 10 years.

We have not thought this measure through. We have not had an opportunity to weigh all of the economic implications of this massive tax program. We have not had an opportunity to receive valuable input from the American people, the business community, economist, and so forth. There are questions we have not answered:

First. How will this drastic tax increase affect our recovery from the recent recession?

Second. Should we shift the tax burden, now shared by employer and employee, from the employee to the employer?

Third. If we abandon the parity concept will it lead us, in future years, to shift most or all of the tax burden onto the employers?

Fourth. Will private pension plans suffer from this change in the tax structure?

Fifth. Will the future growth of our economy be adversely affected by this increased tax liability?

Sixth. Can our middle-income families stand to have their social security taxes doubled or tripled in the next 10 years?

Seventh. Will more Americans be unemployed as a result of the enactment of this legislation? If so, how many?

Eighth. Will the enactment of this tax increase generate opposition to future benefit increases for older Americans by hard pressed taxpayers?

Mr. President, the economic impact of this bill will be far greater than the Finance Committee is projecting. Several economists have estimated that this tax increase will push the U.S. inflation rate up by an additional 1 percent in 1981. Michael Young, an economist at the Wharton Economic Forecasting Associates said:

> What that does is make the impact of the regular cyclical slowdown even worse. It means any tax cuts the administration was planning will have to be visibly larger.

Young went on to point out that breaking parity between employer/employee taxes will "bloat unit labor costs and prompt companies to pass on the full brunt of the increases in higher prices to consumers." The House approach—parity—would have less impact on prices.

Art Pine, writing in this morning's Washington Post stressed that the brunt of the impact will come in 1980–81—"When the economy is expected to be weak anyway"—and that is the time period when the last phase of the energy consumption taxes take effect.

Some business leaders have expressed the view that this tax increase will drive up prices, reduce private pensions, and harm U.S. exports by further reducing our competitive position.

Michael Young also predicted that this bill could have a "sizable" impact on joblessness especially if the economy enters a cyclical slowdown in late 1978.

Mr. President, as the ranking minority member on the Senate Special Committee on Aging and a person who is deeply concerned about the well-being of our senior citizens, I wish that I could support this bill. I want to stabilize the three social security trust funds and thus secure the future of this vital program. I would never take any action that would jeopardize the social security benefits of present and future retirees.

But I am not prepared, Mr. President, to approve—by my vote—an ill-conceived, premature proposal such as this. I supported the efforts by Senator CURTIS and Senator TOWER to correct the most serious defects in H.R. 9346. The Curtis amendments would have restored the concept of parity which is so important to the traditions of this program. Senator TOWER, recognizing as I do that we have time to legislate in a calm deliberate manner, sought to restructure the bill and introduce the concept of price-indexing. I believe, Mr. President, that price-indexing would save the trust funds billions of dollars over the coming years and thus allow us to moderate the tax increases contained in this bill.

Had either the Curtis or Tower amendments carried I probably would have been able to vote for final passage. As it is, Mr. President, I cannot justify, in my own mind, a vote for this bill. This is not a vote against the social security program or the benefits it pays to 30 million Americans. It is instead a vote against a bad bill, the enactment of which we may all come to regret.

The PRESIDING OFFICER. If there be no further amendment to be proposed the question is on the third reading of the bill.

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

Mr. CURTIS. Mr. President, I ask for the yeas and nays on final passage.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, there is another bill in a short time, but I expect a rollcall vote.

The legislative clerk called the roll.

(Mr. MATSUNAGA assumed the chair.)

Mr. HEINZ (when his name was called). Mr. President, on this vote I have a pair with the Senator from Delaware (Mr. BIDEN). If he were present and voting he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. LEAHY (when his name was called). Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting he would vote "nay." If I were at liberty tc vote, I would vote "yea." I therefore withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that the Senator from Alabama (Mr. SPARKMAN) and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

On this vote, the Senator from Connecticut (Mr. RIBICOFF) is paired with the Senator from North Carolina (Mr. MORGAN). If present and voting, the Senator from Connecticut would vote "yea" and the Senator from North Carolina would vote "nay."

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Alabama (Mr. SPARKMAN), the Senator from Tennessee (Mr. SASSER), and the Senator from Arkansas (Mr. BUMPERS) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from North Carolina (Mr. HELMS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Oregon would vote "nay."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from North Carolina (Mr. HELMS). If present and voting, the Senator from Illinois would vote "yea" and the Senator from North Carolina would vote "nay."

The result was announced—yeas 42, nays 25, as follows:

[Rollcall Vote No. 631 Leg.]

YEAS—42

Baker	Gravel	Moynihan
Bayh	Hart	Nelson
Burdick	Hathaway	Pell
Byrd, Harry F., Jr.	Hollings	Proxmire
Byrd, Robert C.	Inouye	Randolph
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Clark	Kennedy	Stafford
Cranston	Long	Stennis
Culver	Magnuson	Talmadge
Danforth	Mathias	Thurmond
Durkin	Matsunaga	Williams
Ford	McIntyre	Young
Glenn	Melcher	
	Metzenbaum	

NAYS—25

Allen	Garn	Roth
Anderson	Griffin	Schmitt
Bellmon	Hansen	Schweiker
Chiles	Haskell	Stevenson
Church	Laxalt	Stone
Curtis	Lugar	Tower
Dole	McClure	Wallop
Domenici	McGovern	
Eagleton	Nunn	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Heinz, for.
Leahy, for.

NOT VOTING—31

Abourezk	Hatfield	Pearson
Bartlett	Hayakawa	Percy
Bentsen	Helms	Ribicoff
Biden	Huddleston	Sasser
Brooke	Humphrey	Scott
Bumpers	Johnston	Sparkman
Cannon	McClellan	Stevens
DeConcini	Metcalf	Weicker
Eastland	Morgan	Zorinsky
Goldwater	Muskie	
Hatch	Packwood	

So the bill (H.R. 9346), as amended, was passed.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be order. Senators will cease conversations. The Senate will please be in order.

There is still too much conversation.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the bill (H.R. 9346) be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations, and cross references thereto.

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

Mr. MOYNIHAN. Mr. President, I move that the Senate insist on its amendments and ask for a conference with the House of Representatives thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. RIBICOFF, Mr. NELSON, Mr. HASKELL, Mr. MOYNIHAN, Mr. CURTIS, Mr. ROTH, and Mr. LAXALT conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I take this opportunity to pay tribute to the distinguished managers of H.R. 9346, the Senator from Wisconsin (Mr. NELSON) and the Senator from Nebraska (Mr. CURTIS), and, of course, the distinguished chairman of the Finance Committee, Senator LONG, upon the passage of this bill today by the Senate.

The importance of the social security amendments to the Nation and the necessity of their passage before the end of the first session of the Congress have been discussed before and are well known to the Members of the Senate. I will not repeat them now. Suffice it to say that it had to be done.

But though it had to be done, the issues that had to be resolved were by no means easy ones. They were difficult and complex.

When confronted with such a challenge, I can think of no Members of this body more capable of meeting it than the three Senators—Senators LONG, NELSON, and CURTIS—who did so much to bring about passage of the social security bill today.

Their knowledge and expertise—and their extraordinary legislative skills—are well known to every Member of this Chamber. They brought all of these qualities to bear on this bill. And because of these skills and their tireless efforts, what many had argued could not be achieved at all has indeed been accomplished—and in a manner that does the Senate and the people of the Nation proud.

Mr. President, every person who will enjoy the benefits of our social security system—and that includes every citizen of this country—owes these three Senators a profound debt of gratitude. On their behalf I say thank you.

DUTY-FREE TREATMENT OF AIRCRAFT PARTS

Mr. MOYNIHAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 422.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 422) entitled "An Act to amend the Tariff Schedules of the United States to provide duty-free treatment of any aircraft engine used as a temporary replacement for an aircraft engine being overhauled within the United States if duty was paid on such replacement engine during a previous importation."

Mr. MOYNIHAN. Mr. President, I move that the Senate recede from its amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, under the order previously entered, I ask the Chair to lay before the Senate Calendar Order No. 499, S. 2159.

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

The legislative clerk read as follows:

A bill (S. 2159) to amend section 771 of the Public Health Service Act to require an increase in the enrollment of third-year medical students in the school year 1978–1979 as a condition to medical schools receiving capitation grants under section 770 of such Act.

The PRESIDING OFFICER. Pursuant to the previous order of the Senate, the Senate will proceed to the immediate consideration of the bill.

The Senate proceeded to consider the bill, which had been reported from the Committee on Human Resources with an amendment to strike all after the enacting clause and insert the following:

That section 771(b)(3) of the Public Health Service Act, as amended, is further amended to read as follows:

"(3)(A) Except as provided under subparagraph (D), a school of medicine may not receive a grant under section 770 to be made in the fiscal year ending September 30, 1978, or in the next fiscal year, unless its application for such grant contains or is supported by assurances satisfactory to the Secretary that such school will increase its enrollment of full-time, third-year students as prescribed by subparagraph (B).

(B) The enrollment increase referred to in subparagraph (A) is an enrollment increase in a school of medicine—

"(i) which is to occur (I) in school year 1978–1979 in the case of an application of such school for a grant under section 770 to be made in the fiscal year ending September 30, 1978, and (II) in school year 1979–1980 in the case of an application of such school for a grant to be made under section 770 in the fiscal year ending September 30, 1979.

"(ii) in the number of full-time, third-year students over the number of full-time, second-year students enrolled in such school in the preceding school year who successfully completed the second-year program of such school and enrolled in the third-year class of such school, and

"(iii) which for school year 1978–1979 is not less than 5 per centum and for school year 1979–1980 is not less than 6 per centum of the number of—

"(I) full-time, first-year students enrolled in such school in school year 1977–1978, or

"(II) full-time, third-year students enrolled in such school in school year 1977–1978, whichever is less.

"(C) In determining the enrollment increase of full-time, third-year students in a school year in which such increase is required by subparagraph (B), full-time, third-year students of such school who were not second-year students in such school and—

"(i) who are not citizens of the United States,

"(ii) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) applies,

"(iii) who were previously enrolled in a school of medicine to which the requirement of subparagraph (A) does not apply because of subparagraph (E) and for whom positions in the third-year class of such school were available in such school year,

"(iv) who were previously enrolled in a school of medicine in a State which is not accredited by the appropriate body or bodies approved for such purpose by the Commissioner of Education,

"(v) who were previously enrolled in a school of dentistry or a school of osteopathy,

"(vi) who were enrolled in a program created after school year 1976–1977 in a school of medicine which program is designed to admit students with graduate degrees into the third-year class of such school of medicine,

"(vii) who first enrolled after October 11, 1976 in a school of medicine not in a State,

"(viii) who, is determining such increase for school year 1978–1979, were first enrolled before October 12, 1976 in a school of medicine not in a State and did not successfully complete part I of the National Board of Medicine Examiners' examination by August 15, 1977, or

"(ix) who did not successfully complete part I of the National Board of Medical Examiners' examination shall not be counted.

"(D) In determining the enrollment increase of full-time, third-year students in a school year in which such increase is required by subparagraph (B), a school of medicine shall receive credit towards fulfilling its required increase—

"(i) for school year 1978–1979, for full-time, second-year students first enrolled in such school in school year 1977–1978 or 1978–1979 and full-time third-year students first enrolled in such school in school year 1977–

1978 who are citizens of the United States; who were enrolled before October 12, 1976, in a school of medicine not in a State; and who successfully completed part I of the National Board of Medical Examiners' examination by August 15, 1977; or

"(ii) for school year 1979–1980, for full-time, second-year students first enrolled in such school in such year who are citizens of the United States; who were enrolled before October 12, 1976, in a school of medicine not in a State; and who successfully completed part I of the National Board of Medical Examiners' examination.

"(E) The Secretary may waive (in whole or in part) the requirement of subparagraph (A) for a school of medicine—

"(i) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education), that compliance by such school with such requirement will prevent it from maintaining its accreditation; or

"(ii) if the Secretary finds that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third-year students. The requirement of subparagraph (A) does not apply to the application of a school of medicine for a grant under section 770 if in the school year 1977–1978 such school had an enrollment of full-time, first-year students which exceeded its enrollment in such school year of full-time, third-year students by at least 25 per centum and if such school had been a two-year school of medicine in fiscal year 1972.

"(F) In complying with the enrollment increase prescribed by subparagraph (B), a school of medicine may to the maximum extent possible consistent with this paragraph and other requirements of Federal law, employ its own selection procedures.

"(G) A school of medicine which did not receive a grant under section 770 because it did not comply with the applicable requirements of this paragraph shall not be eligible to receive a grant under such section to be made in the fiscal year ending September 30, 1980.".

SEC. 2. Section 772 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e) For purposes of administering the requirements of section 771, a reference to a year class of students is a reference to students in that year class who are enrolled in that class for the first time.".

SEC. 3. (a) Subsection (a) of section 748 of the Public Health Service Act is amended to read as follows:

"(a) The Secretary may make grants to—

"(1) accredited schools of public health, and

"(2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 749, to provide traineeships.".

(b) Section 748(b)(3)(B) of such Act is amended (1) by striking out "or" at the end of clause (iii), (2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and (3) by adding after such clause the following:

"(v) preventive medicine or dentistry.".

(c) Section 748(c) of such Act is amended (1) by striking out "$8,000,000" and inserting in lieu thereof "$9,000,000", and (2) by striking out "$9,000,000" and inserting in lieu thereof "$10,000,000".

(d) The heading for section 748 of such Act is amended to read as follows:

"PUBLIC HEALTH TRAINEESHIPS".

SEC. 4. Effective October 1, 1977, section 751(d)(2) of the Public Health Service Act is amended to read as follows:

"(2) second, to applications made (and contracts submitted)—

"(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)(1)(B) in such school year;

"(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

"(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) in such school year.".

SEC. 5. Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by inserting before the period at the end of the fourth sentence the following: "(plus any interest earned on such amount)"; and

(2) by inserting after the fourth sentence the following: "With the approval of the Secretary of the Treasury, the disbursing agent may invest funds of the account in excess of current needs in interest-bearing obligations of the United States with maturities suitable for the needs of the account, and any interest on such investment shall be credited to and form a part of the account.".

SEC. 6. (a) Subsection (a)(1) of section 731 of the Public Health Service Act (relating to eligibility of student borrowers and terms of federally insured student loans) is amended to read as follows:

"(1) made to—

"(A) a student who—

"(i) has been accepted for enrollment at an eligible institution or, in the case of a student already attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student (as defined in section 770(c)(2)) at the eligible institution;

"(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books and laboratory expenses, incurred by such student;

"(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965, and

"(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of the loan need not be paid; and

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and".

(b) Subsection (a)(2) of such section is amended—

(1) by inserting before the semicolon at the end of subparagraph (D) the following: ", except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal"; and

(2) by striking out "student" in subparagraph (E).

(c) Such section is further amended by adding after subsection (c) the following new subsection:

"(d) No provision of any law of the United States (other than subsections (a)(2)(D) and (b) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.".

SEC. 7. Notwithstanding any other provision of law, the Secretary may, where he deems advisable, allow the Indian Health Service to utilize nonprofit recruitment agencies to assist in obtaining personnel for the Public Health Service.

The PRESIDING OFFICER. There is a time limitation on this measure of 30 minutes on the bill. Who yields time?

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that Ginny Eby, Sherri Kramer, Fran Paris, Spencer Johnston, Edi Silvestri, and Barbara Green of the staff of the Committee on Human Resources and David Winston and Richard Vodra of my personal staff be accorded the privilege of the floor.

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

Mr. CRANSTON. Mr. President, I make the same request in behalf of Jon Steinberg.

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

Mr. KENNEDY. I make the same request for two members of my staff, Dr. Lawrence Horowitz and Mr. Robert Wenger.

Mr. CHAFEE. Same request for Miss Fran Paris of my staff.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will please cease conversations. Authorized staff members will retire to the seats provided in the rear of the Chamber. The Senate will be in order.

Mr. KENNEDY. Mr. President, is there a time limitation on this measure?

The PRESIDING OFFICER. There is a time limitation of 30 minutes, equally divided.

Mr. KENNEDY. Mr. President, the hour is late. The issue that is raised by this particular legislation is extremely important to the medical schools of this country. I think the matter which the Senate will probably vote on this evening involves only one basic issue, and I would hope to explain very briefly what action has been taken by the Senate Health Subcommittee and the Committee on Human Resources.

Mr. President, the Health Professions Educational Assistance Act of 1976 required that medical schools, as a condition of capitation, accept an allotted number of third-year students—from among the pool of U.S. citizens who had completed 2 years of medical school overseas, and had passed part I of the national boards. The number required to

be accepted would depend on the number eligible. The burden was to be equally shared by all medical schools.

Mr. President, these schools would be required, under current law, to accept students who meet these minimal criteria without regard to any other academic criteria. In other words, the schools would be prohibited from applying their own academic standards. They would have to take students they would never voluntarily accept—students who do not measure up to the academic standing of those students already in the school.

This provision of law violates the traditional integrity of the academic admissions process. As such, it is unacceptable public policy and needs to be changed. S. 2159 accomplishes those changes.

Mr. President, the current provision of law emerged, at the insistence of the House of Representatives, from the manpower conference. It was the price to be paid for successful completion of that conference. At that time, even the Association of American Medical Colleges urged that the provision be accepted so that the conference could be completed.

This provision of law has not yet gone into effect. It begins with the 1978–79 school year. However, a Federal commitment exists, in law, to those students who have believed for over a year that they can come home to American medical schools. For over 800 of them, the process has already started—they have met the law's requirements and are being processed by HEW. In addition, there are students preparing now to take the exams that will qualify them for next year's match.

Mr. President, S. 2159 addresses the dilemma of a bad law on the one hand and a Federal commitment to young Americans as a result of that law on the other.

The independence and integrity of our universities are distinguishing characteristics of our society. S. 2159 restores the principle of selectivity to the medical school admissions process. By providing a pool of applicants which exceeds the number of positions, it allows universities to choose who they will take and to apply their own academic criteria. Of course, they are still limited to a pool of applicants characterized by their initial rejection by American medical schools. But I see no other way to achieve the necessary balance—a balance which restores selectivity to the admissions process and at the same time honors the Federal commitments to those Americans studying in foreign medical schools.

This compromise is not perfect. It does not fully restore the complete independence of the admissions process. It does not meet the commitment to all those students who would be eligible for admission under current law—about 200 students will lose out in the selection process each year. It does make congressional intent for the future clear. It does remove the most objectionable part of current law. It does balance the needs of the universities against the commitment to the students. It is a fair compromise. To simply repeal current law would be to totally renege on our commitment to hundreds of young Americans. From a policy standpoint, it makes sense. From a humanitarian standpoint, it is unfair and unwise and would threaten the credibility of Federal commitments.

Mr. President, S. 2159 is a 2-year bill. In the first year, medical schools are required to expand their enrollments by 5 percent from a pool made up primarily, though not exclusively, of American students in foreign schools who passed part I of the national boards by August 15 of this year. Also eligible would be Americans in 2-year U.S. medical schools—who are usually accepted anyway—and any others who have passed part I of national boards.

The 5-percent enrollment increase is calculated on the basis of first- or third-year class size, whichever is smaller. The third-year class is the class to be expanded, although transferees may be placed in second-year classes if their individual academic situation warrants it.

The provisions for this first year are identical to the original legislation I introduced with Senators JAVITS, EAGLETON, RIEGLE, STAFFORD, HATCH, BURDICK, and MOYNIHAN. That legislation was limited to a 1-year, 5-percent enrollment increase. It attempted to distinguish between those students already in the HEW applications pipeline and those who would not enter the pipeline until next year.

The legislation as reported by the committee reflects a further compromise designed to achieve a more complete balance between the needs of the schools and the pool of students to whom a commitment is made by existing law. Thus, S. 2159 contains a requirement for a second-year enrollment increase of 6 percent, from the same pool except that national boards may be passed at any time prior to the selection process.

Mr. President, S. 2159 is not perfect. It is a vast improvement over existing law. It does not fully satisfy the medical schools. It does not fully fulfill the commitment to the students.

But it goes a long way toward both, and it eliminates a dangerous Federal precedent.

Mr. President, S. 2159 contains a series of other amendments intended to make technical corrections to the Public Health Service Act. It restores preventive medicine and dentistry to the list of subjects eligible for study by public health trainees; it assures all medical school class graduates equal treatment in their applications to the National Health Service Corps; it allows for the investment of funds of St. Elizabeth's patients in short-term, interest-bearing accounts; it corrects technical deficiencies in the student loan program; and finally, it gives the Director of the Indian Health Service additional flexibility to recruit doctors to serve Indian populations.

Mr. President, few issues before the Senate have created more controversy than the foreign medical student provision of the health manpower law. The House has already acknowledged that its original policy position needed changing—and has passed comparable legislation. I believe S. 2159 will finally end the controversy over these provisions, and I urge its immediate enactment.

Mr. President, in the next few days—a very few days, as a matter of fact, medical schools will be informed as to whether they are eligible for capitation; 828 students have already been informed of their eligibility for the match. I believe we have a responsibility to those who have relied on the existing law and applied for admission in good faith. I think a less strong case can be made for the second year, but a case can be made, and there may be those who favor the 2-year period who want to make that case in a strong way.

But I do think the action, certainly for the 1-year period, should be supported, although I sympathize with those who view the law as so objectionable that it should simply be repealed.

The primary amendment we face here this evening will be the amendment of the Senator from Maryland, which will say, "Let us effectively strike out from the law this particular requirement. Let us respect academic freedom, and restore what we basically, as an institution, feel is the right policy."

I believe it is the right policy, but I think the very brief argument that I will make in opposition is that I do think there are many young people who have acted on the basis of the action that was taken, and I think that we have a responsibility to them.

There will be a second amendment that will say to cut the 2-year period down to a 1-year period. If the Mathias amendment succeeds, this will not be offered.

Those are, I believe, the essential issues we will consider.

There will be another brief amendment that will talk about decoupling the scholarship program from eligibility for capitation. I will accept that. I support it. There will then be an amendment by the Senator from Pennsylvania dealing with the possible discrimination against some young medical students because of their position on abortion. We want to clarify the law.

I hope there will then be passage. We do not intend to take much time on the issue.

Mr. SCHWEIKER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. The chairman has very ably articulated the issues.

Mr. President, I rise in support of S. 2159. The bill is designed to meet the objections raised by the American medical schools. The Health Professions Educational Assistance Act of 1976 contained within it a provision which required America's medical schools to accept into their second- or third-year class U.S. citizens who were enrolled in a foreign medical school as of October 12, 1976 and who could pass part 1 of the national boards. The medical schools have objected to this provision as an unwarranted intrusion into admission process and have pointed out that under the provisions of the act they might well be required to accept students who are mentally, intellectually, or emotionally not qualified to be physicians.

The bill before us, S. 2159, is an attempt to correct some of the deficiencies identified in current law. I believe it is poor public policy to encourage students to enroll in foreign medical schools, first, because the quality of the training may be markedly inferior and, second, because we may find ourselves in a situation where we are developing more physicians than the needs of the country would dictate. S. 2159 would correct the deficiencies identified by the medical schools and at the same time would accommodate some of the students whose expectations were raised by the Health Professions Educational Assistance Act of 1976. Finally, I am supporting S. 2159 but I believe the Congress in enacting such legislation, should clearly indicate that this is a one-time program and will not be continued.

I yield to Senator STAFFORD.

Mr. STAFFORD. Mr. President, I would like to briefly comment on the waiver provision of this legislation, which would apply to medical schools such as the University of Vermont. It states that the Secretary may waive the requirement of increased enrollment for a school of medicine—

If the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies—approved for such purpose by the Commissioner of Education—that compliance by such school with such requirement will prevent it from maintaining its accreditation; or

If the Secretary finds that, because of the inadequate size of the population served by the hospital or clinical facility in which such school conducts its clinical training, an increase in its enrollment of third-year students to meet such requirement will prevent it from providing high quality clinical training for each of its third-year students.

According to the Human Resources Committee report, it is not the intent of the committee to "require schools to expand their enrollment if to do so would result in a loss of accreditation or if there are inadequate facilities to accommodate a high-quality clinical training program for the increased numbers."

I ask unanimous consent that a statement which has been prepared by the University of Vermont Medical School, and a letter to them from the Liaison Committee on Medical Education, dated October 26, 1976, be printed in the RECORD.

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

STATEMENT

Because of its inability to accept any transfer students, the University of Vermont College of Medicine plans to submit a formal request to the Bureau of Health Manpower for a complete waiver of the provision of the Health Professions Educational Assistance Act dealing with that subject. The specific limitation which prevents the institution from providing assurance, both in whole or in part, of reserving an apportioned number of positions to accommodate transfer students is that clinical instructional capabilities, in terms of adequate patient base, are presently at the saturation level. This situation was recognized by the Liaison Committee on Medical Education when its survey team visited the University of Vermont College of Medicine in March, 1976. Subsequently the LCME conferred full accreditation on the program for four years but "with the understanding that there will be no increase in the undergraduate student body until additional clinical resources can be increased substantially." (See attached letter from LCME, dated October 26, 1976)

The curriculum at the University of Vermont is unique among U.S. medical schools in that approximately 66⅔% of the total curricular time over a four year period is built around clinical exposure for the students. Thus it is critical that there be maintained an appropriate balance between the numbers of undergraduate medical students and graduate physicians-in-training engaged in clinical activities and the patient population available for the clinical teaching. It is this component of the training program which would be lowered in quality and in turn fail to meet the accreditation standards if additional students were added. The following data demonstrates the various changes that have taken place at our institution over the past decade to bring the situation to its present "saturation level."

Supporting data

Number of undergraduate medical students

1967	55
1968	75
1969	75
1970	75
1971	75
1972	83
1973	83
1974	83
1975	83
1976	83

Graduate physicians in training

1967	115
1968	134
1969	141
1970	130
1971	123
1972	122
1973	126
1974	130
1975	130
1976	131

MCHV annual hospital census

1967	486
1968	484
1969	475
1970	437
1971	410
1972	401
1973	388
1974	373
1975	378
1976	387

The decline in hospital census at the Medical Center Hospital of Vermont, the principal teaching hospital of the College of Medicine (and the only hospital in the entire state engaged in graduate medical education) is largely attributable to an expansion of hospitalization capabilities elsewhere in the State. Thus patients that heretofore would have come to Burlington for primary and secondary care are now receiving it in hospitals closer to their own homes. At the same time the population base of greater Burlington has not kept pace in terms of growth to the point of maintaining this previously adequate patient census.

As the hospital census of the Medical Center Hospital of Vermont began to decline some eight years ago, the College of Medicine, with the support of its training program directors, developed the concept of collective planning and accountability of graduate medical education. As a result of this approach the institution was able to bring about a halt in unplanned and inappropriate expansion of its graduate training programs. If this trend had not been controlled the present delicate balance between students (undergraduate and graduate) and patients would have been even more difficult to accomplish than has been the case.

Measuring the quality of clinical teaching is imprecise at best; modifying of variables such as adding additional undergraduate students and assessing its impact would not lend itself to any greater precision in evaluation. However, our experience over the past decade has been that with the reduction in patients and a rise in the ratio between students and patients there is a frustration and disillusion on the part of the students as they "compete" for patients and an antipathy and resentment by patients that collectively and adversely influences clinical teaching.

Since 1972 when the institution was obliged to increase the size of its entering class by 10% to qualify for federal capitation grants, it has been a relatively firm policy not to fill spaces vacated by attrition with transfer students. Thus during the past five years, although there has been a loss of 38 students by attrition, only 6 of those spaces were filled by the acceptance of transfer students—all for extraordinary reasons.

Supporting data

Positions vacated

1977	6
1976	2
1975	10
1974	7
1973	8

Number of transfer students admitted

1977	0
1976	3
1975	1
1974	2
1973	0

Class year admitted into

1977	1, 1st
1977	2, 3rd
1976	3rd
1975	3rd

If the request for waiver is denied it will be critically important that the institution identify additional facilities away from Burlington for both inpatient and ambulatory teaching. Obviously if we are required to accept transfer students at the third year level according to the Bureau's present time table these additional facilities must be ready to accommodate the students by January of 1979 when the equivalent of that year begins in the curriculum.

However, in that regard it must be appreciated that over the past ten (10) years we have made and are continuing to make a major effort to expand the clinical base both in and away from Burlington—but with limited success to date:

Site, dates, and comments

Medical Center, Hospital of Vermont, 1967 to present, operating at 70–75 percent of capacity.

Ambulatory care facility, 1966 to present, probably fully operational by 1980 but of limited additional teaching value.

VA affiliation, 1970–76, only VA in State; now affiliated with other medical school. Alternatives not feasible.

Preceptorships in rural group practices, 1971 to present, expansion limited by availability of funds, physician-teacher interest, etc.

Fanny Allen Hospital, Winooski, Vermont, 1970 to present, small hospital (80 beds) very limited because of staff interest in teaching.

Champlain Valley Physicians Hospital, Plattsburgh, N.Y., 1976 to present, expansion limited by availability of patients and teaching faculty.

In view of the present situation and the past and continuing restraints on any significant expansion of the clinical base in or away from Burlington it is impossible for the University of Vermont College of Medicine

to meet the assurance of accepting transfer students and reserve any apportionment of positions for such transfers. To do so would endanger the school's accreditation status and severely compromise its ability to provide high quality clinical training.

LIAISON COMMITTEE ON MEDICAL EDUCATION,
Washington, D.C., October 26, 1976.

WAYNE C. PATTERSON, Ph.D.,
Interim President, University of Vermont, Burlington, Vt.

DEAR PRESIDENT PATTERSON: The purpose of this letter is to advise you of the action of the Liaison Committee on Medical Education and to transmit formally to you the report of the survey team representing it which visited the University of Vermont College of Medicine, March 8–11, 1976.

As you know, the Liaison Committee represents the Association of American Medical Colleges and the Council on Medical Education of the American Medical Association. The purpose of the visit was to evaluate and accredit the undergraduate program in medical education leading to the M.D. degree.

The Liaison Committee on Medical Education has conferred full approval on the program terminating in the M.D. degree for a period of four years. Because clinical instructional facilities are considered to be at the saturation level, full accreditation is granted with the understanding that there will be no increase in the undergraduate student body until additional clinical resources can be increased substantively. Therefore, the Liaison Committee would expect to resurvey the program during the 1979–80 year.

The Liaison Committee has also recommended continuation of full institutional membership of the University of Vermont College of Medicine in the Association of American Medical Colleges.

Accreditation is awarded on the basis that there is an appropriate balance between the size of the enrollment, in each class, and the total resources of the institution, including the faculty, the physical facilities, and the operating budget. If there is to be a substantial change in the size of the student enrollment or the resources of the institution so that the appropriate balance is distorted, the LCME should receive prior notice of the change. If the appropriate balance is to be significantly altered, the accreditation status will be re-evaluated by the LCME.

A copy of this letter and of the survey report are being sent to the Chairman of the Board of Trustees, Allen O. Eaton, and to William H. Luginbuhl, M.D., Dean.

The report is considered confidential by the Liaison Committee and by its parent organizations. However, it is for the use of the College of Medicine and the University as dictated by the best judgment of its officials.

Sincerely,

J. R. SCHOFIELD, M.D.,
Secretary, 1976–77 Liaison Committee on Medical Education.

Mr. WILLIAMS. Mr. President, the Senate is considering S. 2159, a bill which makes a number of technical and other amendments to existing health manpower provisions which were adopted in the Health Professions Educational Assistance Act of 1976. The most prominent issue before us is a provision of existing law adopted in conference on the 1976 bill which directs HEW to require medical schools, as a condition of capitation, to enroll an allotted number of U.S. medical students who are studying abroad. Existing law (Public Law 94–484) requires the medical schools to take all students, without regard to academic qualifications or place of residency, who had been enrolled in a foreign medical school before October 12, 1976, and who have passed part 1 of the national medical boards. Under the law HEW is to allot the prescribed number of students for 2 years (school year 1978–79 and 1979–80).

Mr. President, this provision of existing law has caused a great deal of controversy and I believe it is important to lay out its history and its impact. The provision did not originate in the Senate bill and was opposed by Senate conferees.

It was, however, one of the conditions necessary for resolving the conference and thus all parties involved agreed to adopt the amendment for a limited time. The conferees were very clear at that time, as the Senate report indicates, that there was no intent that this provision would be extended beyond the life of the conference report.

Mr. President, this provision has been criticized by institutions of higher education as an intrusion by the Federal Government into the admission policies of the Nation's medical schools because the legislation did expressly forbid utilization of academic qualifications in selection of students. Over the last several months, several institutions have also indicated their intent not to participate in the capitation program.

The committee was concerned by the reaction of these institutions and understands their objections to the flat prohibition in existing law. We believed, Mr. President, that there was sufficient merit in these views to warrant changing the law. The committee bill does that.

But, Mr. President, the committee bill changes existing law in a way which not only meets the disagreements of the medical schools but also keeps a good-faith agreement with the medical students to whom a commitment was made by this body, by the House of Representatives and by the President 1 year ago.

This bill does not cover any students who were not covered by existing law. It does not extend this program beyond the 1979–80 school year as was set up under existing law. As a matter of fact, in terms of its impact on students, this bill only affords 62 percent of the students to whom the Congress made a promise a year ago a chance to redeem that promise.

The committee understood that at the time. And we decided that it was legitimate to allow the medical schools some flexibility and choice over the students they would take. Thus, the enrollment increase as provided in this bill only will cover 62 percent of those students eligible.

Mr. President, the Committee on Human Resources reported this legislation by a rollcall vote of 12 to zero. No minority views were filed. And my compromise amendment in committee to revise the bill as introduced to a 2-year bill was adopted by a unanimous voice vote. It was understood at that time that some members of the committee would have preferred no legislation at all and some members of the committee would have preferred the legislation as introduced. Indeed, at least one member would have preferred to repeal existing law. What the Senate has before it is compromise legislation adopted by the committee responsible for health manpower legislation. We have considered all of the views and we have adopted legislation which at least assures those students to whom a promise was made that they will have the opportunity to apply to medical schools and their chance in the next 2 years of getting into school will be improved.

I feel strongly that we have made a commitment and we should honor that commitment. The enrollment increases we are talking about in the next 2 years are negligible in terms of their impact on these medical schools. I believe that the committee bill is the most responsible form of action and I urge all of my colleagues to support it.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 1614

(Purpose: To repeal section 771(b)(3) of the Public Health Service Act relating to the reservation of class positions in U.S. medical schools for U.S. citizens studying abroad.)

Mr. MATHIAS. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) for himself, Mr. EAGLETON, Mr. HELMS, and Mr. BUMPERS, proposes an amendment No. 1614.

The amendment is as follows:

Beginning on line 7, page 5, strike out through line 10, page 10, and insert the following: "That section 771(b)(3) of the Public Health Service Act is repealed.".

On page 10, line 3, strike "SEC. 3." and substitute "SEC. 2.".

On page 11, line 8, strike "SEC. 4." and substitute "SEC. 3.".

On page 12, line 2, strike "SEC. 5." and substitute "SEC. 4.".

On page 12, line 14, strike "SEC. 6." and substitute "SEC. 5.".

On page 15, line 6, strike "SEC. 7." and substitute "SEC. 6.".

Mr. MATHIAS. Mr. President, I ask unanimous consent that the names of the minority leader (Mr. BAKER), my distinguished colleague from Maryland (Mr. SARBANES), and the distinguished Senator from Kansas (Mr. DOLE) be added as cosponsors.

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

Is this the amendment on which there is a 10-minute time limitation?

Mr. MATHIAS. That is correct.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. MATHIAS. Mr. President, the Senator from Massachusetts, in his usual objective and positive outlook, has really succinctly summed up this issue in advance. I may not even need my half of the 10 minutes. He has expressed it and, in addition to being objective, he has been generous and has said that the principle which underlies the amendment is the right principle. It is, as he said, simply the principle of whether or not we are

going to recognize academic freedom. whether we are going to let the medical schools of our colleges and universities set the standards by which they admit their students.

Under the present provisions of the law, any medical school which receives capitation grants must admit into its junior and senior classes American students who have attended foreign medical schools and who have been designated as qualified by the Secretary of HEW. So, in fact, the Secretary becomes the one who says whether or not a person would get into a given school.

That provision of law was adopted with the best of motives and with the highest of intentions, but it does constitute a considerable breach of the principle of academic freedom, the right to decide their own admission standards, or, in the absence of that, lose the financial support which has become so important in medical education in this country at a time when we need doctors.

Mr. President, I have a list of 35 medical schools, some of the most famous medical schools in the world, who have been adversely affected by this situation. I ask unanimous consent that the list be printed in the RECORD. I wish I had time to read it because there is a school in very nearly every State.

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

University of Nevada, Reno, Nev.
University of Miami, Miami, Fla.
Morehouse College, Atlanta, Ga.
Northeast Ohio Universities, Rootstown, Ohio.
Creighton University, Omaha, Nebr.
Marshall, Huntington, W. Va.
Catholic University, Puerto Rico.
Medical College of Wisc., Milwaukee, Wis.
University of Missouri, Kansas City, Mo.
Pennsylvania State, Hershey, Pa.
Rutgers, Piscataway, N.J.
University of Maryland, Baltimore, Md.
University of Florida, Gainesville, Fla.
Medical College of Ohio, Toledo, Ohio.
University of Utah, Salt Lake City, Utah.
University of Southern Cal., Los Angeles, Calif.
University of Oregon, Portland, Oreg.
Loma Linda University, La Jolla, Calif.
Yale University, New Haven, Conn.
Harvard University, Boston, Mass.
Johns Hopkins University, Baltimore, Md.
University of North Carolina, Chapel Hill, N.C.
University of Louisville, Louisville, Ky.
Duke University, Durham, N.C.
Vanderbilt, Nashville, Tenn.
Northwestern University, Evanston, Ill.
University of Chicago, Chicago, Ill.
Case Western Reserve, Cleveland, Ohio.
Baylor, Houston, Tex.
University of California, Los Angeles, Calif.
University of California, San Diego.
U. of Cal. at Irvine.
U. of Cal., San Francisco.
U. of Cal., Davis.
Stanford, Stanford, Calif.
Indiana University, Bloomington, Ind.

Mr. MATHIAS. Mr. President, that is really the case. Are we going to say that the medical schools can control their own admission policies, or are we going to maintain the system by which, in order to receive the Federal support which is vital to their operation, they have to accept the participation of HEW in deciding who gets into their schools?

It is just that simple. I believe the time has come to end that system.

Let me say one word about the parliamentary situation. The House has already acted upon this bill. They are retaining the system. Unless the Senate takes the action which is embodied in this amendment, which is to cut it out entirely, there is very little upon which to go to conference. I would hope we would take the step which is embodied in this amendment and put an end to this system, and that the conferees could, in fact, end it. If they could not, they could at least phase it out in an orderly way. The only way to remedy that problem is to adopt this amendment and put the Senate on record in favor of academic freedom.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I rise in support of amendment No. 1614 to S. 2159. This amendment offered by Senator MATHIAS and myself would repeal section 771(b)(3) of the Public Health Service Act, that section which requires medical schools to admit into their second and third year classes American students who have attended foreign medical schools and who have been designated as qualified by the Secretary of HEW.

I believe that this provision, enacted as a part of the Health Professions Education Amendments of 1976, violates two fundamental academic decisions: The criteria for admission of students, and the selection of students. Under present law, schools are required to agree to accept Government set quota of U.S. students now in foreign medical schools as a condition of receiving basic institutional support. The sole academic qualifications for their admission is that they have completed 2 years of study in a foreign medical school and have passed part I of the National Board examination. The effect of this provision is that medical schools would be able to offer places to the best among the applicants but could not fail to fill the quota assigned to the school by the Secretary of HEW on the grounds that the applicant was not qualified academically for admission.

Mr. President, Congress has long used the "carrot and stick" approach to persuade Federal grantees to work toward certain Federal goals. In the same health manpower bill, we require that 35 percent in 1977, 40 percent in 1978, and 50 percent in 1979 of the interns and residents in their first graduate year be in general internal medicine, general pediatrics, or family practice. This is also a condition of capitation supports, but one I believe to be important to the public interest in supplying more physicians in primary care fields. Nor does it violate the ability of institutions to set their own admissions standards.

The same is not true of the provisions relating to U.S. students studying in foreign medical schools.

The goal of those who support the existing provision of law is certainly understandable. The number of U.S. physician licenses issued to U.S. citizens who completed their medical education in a foreign school currently is ranging between 200 and 300 annually. The provision's supporters argue that the training provided in foreign schools, particularly in the clinical years, is inferior to that offered in U.S. medical schools. In almost all cases, students who have trained abroad return to this country to practice, and it was felt that this provision would insure greater quality training of physicians and thus, better doctors.

As I said, the goal is understandable, but this is not the proper approach to resolve the problem. Provisions such as section 771, enfranchising all students who have studied abroad for 2 years and meet the minimal academic qualifications, represent a giant step toward Government takeover of all medical education.

I urge my colleagues to repeal this provision of law, and work with my colleague on the Human Resources Committee to resolve the problem of foreign medical students in a less heavyhanded manner next year.

Mr. DOLE. Mr. President, I rise in support of the efforts of my colleague, Senator MATHIAS, to delete from the law an onerous provision that is an unwarranted intrusion into the admission policies of this Nation's medical schools.

Although I recognize the problem that faces many students who have left this country and enrolled in foreign schools, I cannot support any wholesale and indiscriminate disregard for the rights of our schools to choose their students or the proper size for their institutions.

I am keenly aware of the pressing need for an increased number of physicians in this country who might fill the needs of those in rural areas and areas remote from most support systems. But, Mr. President, this is not the way these problems should be dealt with.

By mandating that schools increase their enrollments, the Federal Government has again said to the schools, "We know what is best; we know how to solve the problems and how to run your school."

This is the familiar carrot-and-stick routine that all Senators will recognize as a common tactic for extending the control of the Federal Government over a program. In fact, this stick packs a particularly powerful punch: capitation grants and participation in the guaranteed student loan program.

It is particularly distressing to me that the law not only penalizes the schools for refusing to take these students by withholding capitation, but also penalizes the students at those schools by eliminating their access to student loans. These students are particularly vulnerable and should not be penalized by their university's decision. After all, they have little or no influence over that decision.

The provision of quality health care to all Americans and the provision of enough doctors to provide that care are of great importance to this body. We have a valid interest in providing assistance to American students in foreign schools. But let those schools of which we are so proud make their own decisions. Let them devise a system that will answer our concerns without damaging the integrity of the admissions process.

Mr. WILLIAMS. I wonder if I am right in stating that, with this bill before us, we change the law and the medical schools, by this bill, would again have the opportunity to apply their own qualifications and standards for admission.

Mr. KENNEDY. The Senator is correct.

Mr. WILLIAMS. For the students in foreign schools who are covered by this bill, the schools would have the opportunity to apply their qualification standards. That is point No. 1. I do not believe that was the impression left from the way the Senator from Maryland stated the position as he sees it. They can retain their standards of qualification.

The demand upon them that they take more students continues for 2 years—in the first year 5 percent and then 6 percent. This is done for one simple reason: To honor a commitment made here last year to those students in foreign schools.

The third point is this is not a continuing program. It runs out in 2 years. Believe me, this is one I am sure we will not be back to extend.

Mr. JAVITS. Will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. I would like to associate myself with the remarks of the Senator from New Jersey. I am the ranking member of this committee. It was a very, very difficult solution to work out. There was much feeling in the medical schools about it. We finally worked out a compromise which I believe is generally acceptable, except perhaps for those few medical schools—and I do not denigrate them at all—to which Senator MATHIAS has spoken. It represents a repeal, a change, a basic change, in existing law.

I think it is a very clear promise which was made to 840 students that they could complete their educations in the United States. That is of inestimable value to us because it is a fact, and I state it as a fact, that the degree of training is higher and will equip them better to be doctors in this country if they do have this last year in our own medical schools. That is an ascertained fact.

Under all those circumstances, and with the greatest affection and respect for my friend from Maryland, I hope the Senate will reject this amendment.

Mr. KENNEDY. One final minute, Mr. President.

We want to assure the membership that the reason this bill is here on this floor, as well as the fact that the House has taken it, is because the principle which the Senator from Maryland has stated is basically and fundamentally the same view that all of us on that committee have in terms of academic freedom. The policy issue is absolutely correct, as the Senator from Maryland has stated. I do not think there is really any difference on that.

The real question is the degree of responsibility that we feel in terms of those young people, Americans who relied upon the law that has been on the books for a year and a half and have taken the exams, have been accepted as meeting all of the criteria, and have had notice given to them to that effect, and have relied upon that legislation.

What kind of weight are we willing to give to the interests of those young people versus, on the other hand, this particular issue? That is, basically, the dilemma.

Mr. President, I am prepared to yield back my time.

Mr. GLENN. Will the Senator from Maryland yield for a question?

Mr. MATHIAS. If I have any time.

Mr. KENNEDY. I yield 2 additional minutes.

The Senator from Rhode Island has a unanimous-consent request.

Mr. PELL. I ask unanimous consent that Peter Harris of the committee staff be granted the privilege of the floor.

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

The Senator from Ohio is recognized for 2 minutes.

Mr. GLENN. I think that, under current law, what we are doing is bringing back students who, by and large, were turned down for entrance into medical school here and had sufficient funds or were wealthy enough to go overseas and do their training there. Is that correct?

Mr. MATHIAS. For whatever reason they were able to get into foreign medical school.

Mr. GLENN. If the amendment of the Senator from Maryland is not passed and these students are not brought back, we will be eliminating from future medical school classes perhaps even better students who are here now, and may want to go overseas; is that correct?

Mr. MATHIAS. I think that is essentially correct.

Mr. KENNEDY. If the Senator will yield, this is an add-on provision. We have increased the percentage requirement plus the capitation for this particular bulge in the limited time. So it would not effectively mean adding additional slots.

Mr. GLENN. I understand that the difficulty of medical schools now is that they do not have sufficient hospital space to accommodate the students. That is the only thing that prevents medical schools from being larger than they are now.

Mr. KENNEDY. If the Senator will permit me to answer that, that is included in the legislation. If they do not have the hospital or the training facilities, there is a waiver provision and they are not required to meet the requirements of the act.

Mr. MATHIAS. Let me just add to the response to the Senator from Ohio.

The fact is that they are required to take a quota. That is a necessity. That should be clearly understood.

Mr. SARBANES. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. SARBANES. Mr. President, I rise in very strong support of the amendment of the Senator from Maryland. I think the fundamental principle is extremely important. Even on a limited basis, to ask the schools to compromise that principle is to permit an intrusion into a decisionmaking power which I think it is fundamental to have preserved to the school. Many schools have responded to the capitation grants and expanded their classes to meet the national need and try to be responsive.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. I yield 2 minutes on the bill to the Senator.

Mr. SARBANES. As the Senator from Ohio has pointed out, what this means in terms of equity as among students, if we stop and think about it for a moment, is to carry through an inequity—may well be to carry through an inequity. The students who sought admission and were not accepted, not in a position to finance education abroad, who would seek the opportunity to become part of the medical profession, now find themselves placed in a lesser category as opposed to students who were able to take advantage of that opportunity. That is an inequity only among students.

If we take that inequity into account at the same time that we consider the very important principle of academic freedom that is involved for the schools, it seems to me that we ought to support the amendment which has been offered by the Senator from Maryland and not intrude into that basic principle.

Therefore, I support the amendment that my distinguished colleague has offered.

Mr. MATHIAS. Mr. President, Senator HELMS, cosponsor of this amendment is necessarily absent tonight, but he has asked that his statement on this important issue be included in the debate.

Mr. President, I ask unanimous consent that the statement of my friend, the distinguished Senator from North Carolina, be printed in the RECORD at this point.

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

STATEMENT BY SENATOR HELMS ON MATHIAS-HELMS AMENDMENT TO S. 2159, MEDICAL SCHOOL ENROLLMENT

I am pleased to join my distinguished colleague from Maryland (Mr. Mathias) and my distinguished colleague from Missouri (Mr. Eagleton) in sponsoring this amendment to S. 2159. The purpose of this amendment is simple. It prohibits the Federal Government from imposing upon the medical schools of this country admission standards and policies with respect to transfer students.

Under present law, medical schools must accept government-set quotas for the admission of transfer students who have begun their studies at foreign medical schools as a condition for seeking renewed capitation grants from the Department of Health, Education and Welfare. Additionally, transfer students who are deemed eligible by the Secretary of Health, Education and Welfare may not be denied admission to an American medical school on the basis of their academic qualifications.

Former Supreme Court Justice Felix Frankfurter observed that "the four essential freedoms of a university are the right to determine for itself on academic grounds who may teach, what may be taught and how it shall be taught, and who may be admitted to study." 354 U.S. 234, 263 (1957)

This essential aspect of academic freedom, the liberty of the university to determine for itself who may be admitted to study, is essentially rendered meaningless by present law. Not only does the Department of HEW impose a quota for admission of transfer students, but it also indirectly sets the admission standards of the medical schools

by determining who is to be considered an eligible student.

Throughout the United States, educators who have devoted their lives to the betterment of American medical education are increasingly alarmed by the ease with which the Federal Government would control medical education in the United States. In my own State of North Carolina, many distinguished educators have expressed concern with this entanglement of the Federal Government with medical education. For example, I am advised by Dr. Edwin W. Monroe, Vice Chancellor for Health Affairs at East Carolina University and Christopher C. Fordham, Dean of Medicine at the University of North Carolina at Chapel Hill, that no matter how well intended, such Federal controls on medical schools, so adversely affect their academic freedom and autonomy as to outweigh any supposed benefit.

On April 2 of this year, I introduced S. 1361, the Academic Freedom Act of 1977, to preserve the academic freedom and the autonomy of institutions of higher education. In part, this bill provides that "No agency or authority of the United States shall promulgate or enforce any regulation . . . which directly or indirectly requires, promotes, or encourages, the abandonment or reduction of academic requirements for admission to any program or activity, or to any undergraduate or graduate degree program of such institution of higher education."

I believe this is the policy which Congress should adopt to clearly articulate the proper relationship between the Federal Government and educational institutions. Ultimately, this is the surest way of preserving academic freedom and that freedom of thought which is the foundation of a free and democratic society.

I believe that the present policy of government-imposed admission quotas and the prohibition against denying admission on academic grounds to a student whom HEW has deemed to be "eligible" would violate this provision of the Academic Freedom Act were it the law today.

Although the amendment we are now considering attempts to paint with a smaller brush, nonetheless it will do much to promote the freedom and automony of America's schools of medicine and I, accordingly, urge its adoption.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was adopted.

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, the Senator from Pennsylvania had an amendment. We have just two quick amendments.

UP AMENDMENT NO. 1072

(Purpose: To define "eligible institution".)

Mr. SCHWEIKER. Mr. President, in behalf of the Senator from California, (Mr. HAYAKAWA) who, unfortunately, had a personal conflict today, I offer an amenedment relating to this bill. First I would like to address a question to the distinguished chairman, Senator KENNEDY. Senator HAYAKAWA has an amendment separating loan guarantee and scholarship programs from capitation. I wonder if the Senator will state his position on these two amendments?

Mr. KENNEDY. We shall accept the amendment of the Senator from California on the decoupling provisions as it relates to the provisions of the act relating to foreign medical students.

The PRESIDING OFFICER. Will the Senator offer the amendment first?

Mr. SCHWEIKER. I send it to the desk.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk read as follows:

The Senator from Pennsylvania, for the Senator from California (Mr. HAYAKAWA), for himself, Mr. STEVENS, Mr. HATCH, and Mr. HEINZ, proposes an unprinted amendment numbered 1072.

Mr. SCHWEIKER. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . Section 737(1) of the Public Health Service Act, is amended to read as follows:

"(1) The term 'eligible institution' means a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine and public health (as defined in section 737(2)) within the United States.".

Mr. SCHWEIKER. This amendment simply states that student loans cannot be denied to students in U.S. medical schools because they do not comply with the capitation provisions as outlined in existing law.

Mr. KENNEDY. Mr. President, there is no reason that the students ought to bear the burden of an administrative decision. I support the amendment.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that a statement by Senator HAYAKAWA on his amendment be printed in the RECORD.

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

STATEMENT BY SENATOR HAYAKAWA

As you know, the Health Professions Educational Assistance Act of 1976 required as a condition of receiving capitation funds that universities admit into their schools of medicine, students not subject to the normal admissions requirements promulgated by faculty. Under this Law, U.S. medical schools must accept foreign medical school students who are American citizens, who enrolled overseas before October 12, 1976; who successfully finished 2 years of a foreign medical school, and who passed Part 1 of the National Board of Medical Examiners. The other academic and residency requirements usually used by the schools in choosing transfer students were not to be considered.

In response to these requirements, many schools chose not to participate in the program, believing that the strings attached to receiving the funds are basic and unwanted intrusions into the fundamental academic processes of such universities. Thus, the penalty for not taking part in this transfer program is loss of capitation funds and loss of eligibility for participation in the guaranteed student loan program.

This is the reason for the amendment I am proposing today. The 1976 Act renders students at medical schools not participating in the capitation program ineligible for the Health Professions Guaranteed Student Loan Program. This penalty, which is directed at the students, not the schools, is not changed in S. 2159. I see no reason to continue with this punitive policy. We are punishing the students for an administrative decision over which they have no control. My amendment would divorce an institution's participation in the capitation program from its students' eligibility for the student loan program.

The bill as it stands now would force a student to choose a school which offered financial aid under this program over a school which he might personally prefer to attend. A school's decision not to participate in the capitation program should not have any bearing on a student's eligibility for aid. This is the kind of policy, it seems to me, that makes certain schools available only to the more affluent students, which is unfair. Programs intended to help students pay for their education should not interfere with the student's opportunity to choose the academic program best suited to his or her educational goals.

Direct federal student aid programs should be based on the school's ability to meet minimum academic standards as determined by the appropriate accreditation body, and the school's financial management responsibility. After all, financial aid programs were begun so that students could attend school. But by placing restrictions on educational aid for students, we force them into positions with limited options. America prides itself on having only top-quality medical schools, and competition to attend is fierce.

However, by excluding some schools from participating in student loan programs, we prevent many students from going to the medical schools they want to attend. Thus, the incentive for a student to excel is negated through financial strongarming.

My amendment to the Health Professions Educational Assistance Act of 1976 would separate student eligibility for the Health Professions Guaranteed Student Loan program from an institution's receipt of a capitation grant under the provisions of the 1976 Act.

Under current law, the two matters are entwined. If a medical school, for whatever reason, does not qualify for a capitation grant, the students at that school are not eligible for this loan program.

Although the intention of this linkage is to provide an extra incentive for a medical school to comply with the capitation requirements, the clear effect of this all-or-nothing policy is to punish students if an institution decides it will not apply for capitation or if it cannot meet the requirements to obtain it. As an incentive program, the loan conditions will not carry sufficent weight to alter an institutional decision; as a punitive measure, it punishes an innocent third party—the students.

Because of the highly controversial conditions in the 1976 Act pertaining to the admission of Americans studying medicine in foreign schools who might not be admitted under normal university admission requirements, some of the leading universities in America may not qualify for capitation grants. Should this occur, students at these schools will also be rendered ineligible for the loan program. I think this would be an unfortunate, and unnecessary consequence.

May I stress that schools don't want to hurt students, either. An administrative decision as to whether or not to participate in this grant program should not affect the students. That is why I want to stop this injustice.

I would also like to commend the conscientious efforts of Senators Kennedy, Javits and Williams for trying to rectify the inequities in the Health Professions Educational Assistance Act of 1976 by introducing S. 2159. This bill had a strong adverse reaction, and it is now up to us to correct these inequities. I would also like to add

that I have heard from the following universities and organizations in support of my amendment:

Tulane University
Stanford University
Harvard
All 5 California universities
U.S.C.
Association of American Medical Colleges
Association of American Universities
Johns Hopkins University

I therefore request my colleagues' support for separating student eligibility for loan programs from institutional requirements for other types of funding. I cannot support using students as pawns in this matter, and I hope you will agree with me. Thank you.

Mr. STEVENS. Mr. President, as a cosponsor of Senator HAYAKAWA's amendment, I welcome this opportunity to offer my support because of its importance to States such as Alaska, Delaware, Idaho, Maine, Montana, and Wyoming, that do not have medical schools.

Under current law, students will lose their eligibility for health education loans if their institution feels compelled to forfeit capitation funds as a means of defending its autonomy. The health professions loan program is intended to assist students and should not be related to the capitation/foreign student issue.

This is especially important for potential medical students in my State who are forced to go outside for a medical education. This causes an additional financial burden on the students and their families.

Senator HAYAKAWA'S amendment would offer these medical students the opportunity to select from several institutions instead of limiting them to those which are recipients of capitation funds and therefore enable the institutions to offer the loan program.

Let us not punish these students by forcing them to attend institutions that receive Federal funds, but allow them to select the school of their choice.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. KENNEDY. Yes.

Mr. SCHWEIKER. Yes.

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

The amendment was agreed to.

UP AMENDMENT 1073

(Purpose: To provide for unbiased consideration of applicants to medical schools with respect to their views on abortion.)

Mr. SCHWEIKER. Mr. President, I have another amendment which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER), for himself, Mr. PELL, Mr. CHAFEE, Mr. HELMS, Mr. BARTLETT, Mr. CHILES, Mr. CHURCH, Mr. RANDOLPH, and Mr. HEINZ, proposes an unprinted amendment numbered 1073.

Mr. SCHWEIKER. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 15, after line 9, insert the following:

SEC. 8. Section 401(c) (42 U.S.C. 300a–7) of the Health Programs Extension Act of 1973 is amended by adding at the end thereof the following new paragraph:

"(3) No entity under this Act which receives, after the date of enactment of this paragraph, any grant, loan, loan guarantee, or interest subsidy or which enters into any contract with the Secretary of Health, Education, and Welfare may deny admission or otherwise discriminate against any applicant for study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions."

The PRESIDING OFFICER. Is this the amendment on which there is a 10-minute limitation?

Mr. SCHWEIKER. That is correct. I yield myself 5 minutes.

Mr. President, the amendment I am proposing today is a simple one, and one that I hope every Member of this body can support.

Several years ago Congress, under the leadership of the Senator from Idaho, Mr. Church, added a "conscience clause" to the Public Health Service Act. In this law, we said that no entity receiving Federal funds could discriminate against any individual because of that individual's refusal to participate in abortions, where the refusal was based on the individual's religious or moral convictions. This law recognized that abortion is a very difficult moral question in our society, and a person who felt that abortion was wrong should not be barred from participation in the medical profession.

My amendment simply extends the protection Congress provided in 1973 to people trying to enter the medical profession. The amendment should be noncontroversial, because whatever our personal feelings on abortion, we all recognize the sensitivity of forcing people to compromise their beliefs in order to enter their chosen profession.

My first reaction, when I heard of this issue last winter, was that it could not really be a problem. But then I saw a survey done by Dr. Eugene Diamond of Chicago, who asked the medical schools directly what their practices were in this regard. He found that about one-third of all schools regularly ask their applicants their views on abortion, and another one-third said that the subject sometimes came up in interviews. Two schools admitted that an applicant's opposition to abortion would be a negative factor on his record, and about one in six said that students opposed to abortion create administrative problems for the school, which could become a factor when a school finally chooses among large numbers of applicants.

From this revelation, I then began to receive some case histories, the stories of students who faced extreme hostility in the admissions process simply because of their opinions on abortion. I would like to share one of these letters with the Senate and ask unanimous consent that the letter be printed at this point in the RECORD:

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

WASHINGTON, D.C., *April 6, 1977.*

HON. RICHARD S. SCHWEIKER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SCHWEIKER: I strongly support your proposal which would disallow a medical school interviewer from asking a prospective student his position on abortion.

I support this because I believe that the emotional atmosphere of this issue almost cost me my acceptance to a U.S. medical school.

While obtaining my undergraduate training at the University of San Francisco I became heavily involved in the Students United for Life. When I applied to medical school, I naturally listed these involvements as extracurricular activities. Little did I know at that time that my beliefs regarding abortion would probably prevent me from entering several medical schools.

At the University of California at Davis School of Medicine I just "happened" to be interviewed by Dr. Fred Hanson, an OB/GYN specialist who does abortions. In the next hour that I spoke with him, we debated the abortion issue for approximately forty minutes. He told me that it is difficult to say when life ends, and therefore it is also hard to say when it begins. Dr. Hanson stated that amniocentesis is 100 percent accurate, and asked whether I would abort a fetus diagnosed with Down's Syndrome. He knew that my younger brother, Michael, had Down's Syndrome, and had been killed two months earlier, so he decided to rephrase the question. Would I abort someone with hemophilia? I asked him what sort of life these people had, since it occurred to me that if a hemophiliac lead a miserable life, he could end it quite easily. He replied that hemophiliacs lead an existence that is not worth living. And so it went with Dr. Hanson.

My other U.C. Davis interviewer was a female medical student. (I believe her name was Jan Ewing.) She also was concerned about my views on abortion, and especially how I would feel toward a patient who had had an abortion.

My student interviewer at the University of Southern California School of Medicine quizzed me about my abortion beliefs, and concluded that I was consistent at the end of that issue.

At Northwestern University School of Medicine my student interviewer, because of his Jewish background, had a natural interest in Tay Sach's disease. This student, like the U.C. Davis interviewers, felt that everyone had his limit where he would or would not do abortions. His limit was Tay Sach's disease (and *not* Down's Syndrome), especially since the child would die by his second to fourth years anyway. Because I didn't agree with him, he accused me of being insensitive. Once again, my moral beliefs may have prevented me from entering a medical school.

In interviews at Georgetown University, Tulane University, St. Louis University, and Creighton University, the abortion issue was not discussed.

I was accepted at Georgetown, and have noted that the students in my class represent a wide variety of opinions about abortion and many other moral and ethical questions.

I wholly applaud this proposal, but I believe that it should be expanded to include nursing schools and other paramedical training programs.

Sincerely,

CHARLES T. MORTON,
First Year Student, Georgetown University School of Medicine.

In response to this problem, I introduced S. 784 in February. This bill is substantially similar to my amendment, and I was joined then, as I am now, by Sen-

ators BARTLETT, CHAFEE, HELMS, and PELL; in addition, Senators CHILES, CHURCH, RANDOLPH and HEINZ are joining as sponsors of this amendment.

There is not likely to be any comparble subject for which the members of an admissions committee would be so ready to condemn an applicant for the "wrong" opinions. Emotions and prejudice run in both directions, and I think we should be upset whether a student is kept out of a medical school because he is thought to be a "murderer of the unborn" or because he is thought to be "insensitive to the needs of women."

Mr. President, my amendment was introduced to deal with a problem that has been shown to exist both by survey and personal experience. It is not an abortion issue. It is a first amendment issue, seeking to protect the freedom of those who hold an opinion that may not be shared by some within the medical education establishment, allowing them to enter and practice the profession of their choice if they are otherwise qualified to do so. I hope that the Senate will adopt this amendment.

As I said, it is a very simple amendment. Senator CHURCH added a conscience clause several years ago in a Public Health Service Act. It said that no entity receiving Federal funds could discriminate against any individual because of that individual's refusal to participate in abortions. This basically says the same thing for medical school students, whether you are pro or con, anti or whatever, that you cannot discriminate in terms of accepting an applicant for a medical school based on whether they are pro or antiabortion.

Mr. JAVITS. Mr. President, just a minute.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I claim the time in opposition.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, has the Senator stricken out subsection (A), which very much inhibited academic freedom, which says that you may not question an applicant, verbally or in writing, and so on, on this subject?

Mr. SCHWEIKER. The Senator is quite corect. Section (A) has been deleted and the only section that remains says—

"(3) No entity which receives, after the date of enactment of this paragraph, any grant, loan, loan guarantee, or interest subsidy or which enters into any contract with the Secretary of Health, Education, and Welfare may deny admission or otherwise discriminate against any applicant for study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions."

Mr. JAVITS. That I thoroughly agree with.

The second point, to say "no entity," we are talking about medical schools, so should we not say, "no medical school"?

I do not know what "no entity" means, or from whom.

Mr. SCHWEIKER. This would be a nursing school, too, for example.

Mr. JAVITS. Well, let us say that we have to say something entity.

Mr. SCHWEIKER. It would be an entity under the act as defined by the act.

Mr. JAVITS. The word "entity" is not defined. Let us say "no entity under this act." We have to say something.

The Church amendment, which I thoroughly agree with, is section 401 of the act which the Senator is seeking to amend, it deals with that. It relates to various statutes and then says, by any individual or entity which brings it under those statutes.

This way, we have an absolute statement, "no entity."

Mr. SCHWEIKER. The Church amendment says "no entity."

Mr. JAVITS. But it defines a number of laws specifically. This does not say anything about any law. It just says "no entity," absolutely.

Mr. SCHWEIKER. We are adding a paragraph at the end of this existing paragraph that does define entity.

Mr. JAVITS. Can we not say, "no entity under this act"?

Mr. SCHWEIKER. All right.

Mr. JAVITS. All right.

Mr. SCHWEIKER. I ask for that modification of the amendment.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 15, after line 9, insert the following:

Sec. 8. Section 401(c) (42 U.S.C. 300a–7) of the Health Programs Extension Act of 1973 is amended by adding at the end thereof the following new paragraph:

"(3) No entity under this act which receives, after the date of enactment of this paragraph, any grant, loan, loan guarantee, or interest subsidy or which enters into any contract with the Secretary of Health, Education, and Welfare may deny admission or otherwise discriminate against any applicant for study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions."

Mr. SCHWEIKER. Mr. President, I ask unanimous consent to add Senator Dole as a cosponsor.

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

ABORTION AND MEDICAL SCHOOL ADMISSION

Mr. CHURCH. Mr. President, I wish to add my strong support to the amendment offered by the Senator from Pennsylvania, Mr. SCHWEIKER, which would prevent medical schools from discriminating against applicants for admission because of their views on abortion.

As the author of the conscience clause, which, as a matter of law, prevents the Federal Government from forcing those opposed to abortions to participate in their performance, I have been deeply concerned over the issue of compelling individuals and institutions to assist in abortions against their will. As Senator SCHWEIKER has pointed out, many medical schools have asserted that they request the views of applicants for admission on abortion, and then may use a response of opposition as the basis for denying entry. I find this form of compulsion on the abortion issue just as appalling as the coercion for abortion that was underway after the Supreme Court's decision in 1973, which my conscience clause has stopped.

The pending amendment would prohibit medical schools from discriminating against applicants for admission because of their views on abortion. It is an extension of the concept that underlies my conscience clause: No one should be forced to perform abortions against their religious beliefs or moral convictions. It would end a baseless form of discrimination against students whose beliefs regarding abortion should not be in question even after they are medical professionals. I urge my colleagues to adopt the amendment of the Senator from Pennsylvania.

Mr. JAVITS. The amendment is then modified to say "no entity under this act?"

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I have no objection. I like the amendment.

The PRESIDING OFFICER. Do Senators yield back all the time?

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment offered by the Senator from Pennsylvania, as modified.

The amendment, as modified, was agreed to.

Mr. KENNEDY. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the the third reading of the bill.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Human Resources be discharged from further consideration of H.R. 9418 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9418) to amend the Public Health Service Act to require increases in the enrollment of third-year medical students as a condition to medical schools' receiving capitation grants under such act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. KENNEDY. Mr. President, I move that all after the enacting clause be stricken to the text of S. 2159, as amended by the Senate, be substituted therefor, that it be considered as having been read the third time and that the Senate proceed to vote on final passage

of the bill, as amended, without intervening motion or debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Massachusetts.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to H.R. 9418.

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

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Massachusetts intend to ask for the yeas and nays on final passage?

The PRESIDING OFFICER. The Senate will be in order. The Chair is unable to hear the response.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on final passage.

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I will not detain the Senate more than 3 or 4 minutes.

Mr. President, if I may have the attention of Senators.

The PRESIDING OFFICER. The Senate will be in order. The Senators will please cease conversation on the floor.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

STATUS REPORT—NOVEMBER SCHEDULE

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, first on behalf of the leadership I wish to thank all of the Members of the Senate for the time that they have so unstintingly given to the completion of the work which was felt necessary before we begin the schedule of pro forma meetings.

The social security financing bill, it was felt, was a "must." The President of the United States in a letter to me yesterday asked that that bill be passed this year. The Senate has now passed the bill.

The bill that Mr. KENNEDY has so expertly managed, together with Mr. SCHWEIKER, the ranking manager on the other side of the aisle, was felt to be a necessary piece of legislation, and it has now been acted upon.

I know that the patience of Senators has been stretched, but they have responded, I think, in a very fine way.

The joint leadership announced a few days ago that Senators would not be called back next week, nor would they be called back during the week of Thanksgiving.

The purpose of cutting down on the floor work and stopping action on calendar measures for the remainder of this session was to give the conferees on the various measures in conference an opportunity to work without interruption by quorum and rollcalls from the floors of either of the two bodies.

I have discussed this matter now with the distinguished Senator from Washington (Mr. JACKSON) who will be heading up the conferees on four of the five energy bills in conference. I have discussed it with the distinguished minority leader, I am prepared to now announce on behalf of the joint leadership that there will be no business during the week of November 13, barring an emergency which we do not foresee.

Now, this would mean that during the next 3 weeks the minority leader and I will be here to conduct pro forma sessions, and in those pro forma sessions, at least 1 day out of the 2 days each week, Members may insert statements in the RECORD—not deliver them—but insert them in the RECORD. They may introduce bills and resolutions, committees may report measures and nominations. Of course, committees can conduct hearings while the Senate is not meeting, without consent.

These 3 weeks of uninterrupted conferences will allow conferees to expedite their work.

If a matter of an emergent nature should arise, which we cannot foresee at the moment, our colleagues will be notified of such by the joint leadership as much in advance as possible, so that Senators not in conference can make their plans to return to this city. But as of now, I can see no necessity for the Senate to have any meetings to conduct business before Monday, November 28.

I suggest that Members be prepared to return for Senate sessions beginning November 28 because, hopefully, we may have some conference reports on the energy bills as well as on other measures by that date.

Nominations that are not controversial possibly will be taken up at pro forma sessions. If there are controversial nominations, of course, depending to what degree they are controversial, they may not be taken up.

Barring those possible situations of an emergency nature—and I do not see anything at the moment that would cause us to have to come back—Senators who are not conferees may count on making their appointments and schedules in their respective States during the next 3 weeks. The leadership will try to keep Senators informed as best we can, so that they will be aware of conference developments requiring their attendance at future Senate sessions.

I close by thanking the Members again for their patience and their indulgence.

Does the distinguished minority leader wish me to yield?

Mr. BAKER. Only very briefly, to say that I agree thoroughly with the schedule. It is a vast improvement to have that unbroken time, barring unforeseen circumstances, until the 28th.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

The Senate continued with the consideration of H.R. 9418.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Montana (Mr. METCALF), the Senator from North Carolina (Mr. MORGAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Nebraska (Mr. ZORINSKY), are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) is absent because of illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from North Carolina (Mr. MORGAN), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from North Carolina (Mr. HELMS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. STEVENS), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Virginia (Mr. SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 57, nays 2, as follows:

[Rollcall Vote No. 632 Leg.]

YEAS—57

Allen	Eagleton	McIntyre
Anderson	Ford	Melcher
Baker	Garn	Metzenbaum
Bayh	Glenn	Moynihan
Bellmon	Hansen	Nunn
Bumpers	Hart	Pell
Burdick	Hathaway	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
	Inouye	Riegle
Byrd, Robert C.	Jackson	Roth
Chafee	Javits	Sarbanes
Chiles	Kennedy	Schmitt
Church	Laxalt	Schweiker
Clark	Leahy	Stafford
Culver	Lugar	Stone
Curtis	Magnuson	Thurmond
Danforth	Mathias	Tower
Dole	Matsunaga	Wallop
Domenici	McClure	
Durkin	McGovern	

NAYS—2

Cranston	Williams

NOT VOTING—41

Abourezk	Hatfield	Pearson
Bartlett	Hayakawa	Percy
Bentsen	Heinz	Ribicoff
Biden	Helms	Sasser
Brooke	Huddleston	Scott
Cannon	Humphrey	Sparkman
Case	Johnston	Stennis
DeConcini	Long	Stevens
Eastland	McClellan	Stevenson
Goldwater	Metcalf	Talmadge
Gravel	Morgan	Weicker
Griffin	Muskie	Young
Haskell	Nelson	Zorinsky
Hatch	Packwood	

So the bill (H.R. 9418) was passed, as follows:

Strike out all after the enacting clause and insert:

That section 771 (b) (3) of the Public Health Service Act is repealed.

SEC. 2. (a) Subsection (a) of section 748 of the Public Health Service Act is amended to read as follows:

"(a) The Secretary may make grants to—

"(1) accredited schools of public health, and

"(2) other public or nonprofit institutions which provide graduate or specialized training in public health and which are not eligible to receive a grant under section 749,

to provide traineeships.".

(b) Section 748(b)(3)(B) of such Act is amended (1) by striking out "or" at the end of clause (iii), (2) by striking out the period at the end of clause (iv) and inserting in lieu thereof ", or", and (3) by adding after such clause the following:

"(v) preventive medicine or dentistry.".

(c) Section 748(c) of such Act is amended (1) by striking out "$8,000,000" and inserting in lieu thereof "$9,000,000", and (2) by striking out "$9,000,000" and inserting in lieu thereof "$10,000,000".

(d) The heading for section 748 of such Act is amended to read as follows:

"PUBLIC HEALTH TRAINEESHIPS".

SEC. 3. Effective October 1, 1977, section 751(d)(2) of the Public Health Service Act is amended to read as follows:

"(2) second, to applications made (and contracts submitted)—

"(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or prorgam described in subsection (b)(1)(B) in such school year;

"(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) in such school year; and

"(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) in such school year.".

SEC. 4. Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by inserting before the period at the end of the fourth sentence the following: "(plus any interest earned on such amount)"; and

(2) by inserting after the fourth sentence the following: "With the approval of the Secretary of the Treasury, the disbursing agent may invest funds of the account in excess of current needs in interest-bearing obligations of the United States with maturities suitable for the needs of the account, and any interest on such investment shall be credited to and form a part of the account.".

SEC. 5. (a) Subsection (a)(1) of section 731 of the Public Health Service Act (relating to eligibility of student borrowers and terms of federally insured student loans) is amended to read as follows:

"(1) made to—

"(A) a student who—

"(i) has been accepted for enrollment at an eligible institution or, in the case of a student already attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student (as defined in section 770(c)(2)) at the eligible institution;

"(iii) in the case of a student in a school of medicine, osteopathy, or dentistry, has been authorized by the institution in accordance with section 739(b)(2) to receive a loan under this subpart;

"(iv) has agreed that all funds received under such loan shall be used solely for tuition and other reasonable educational expenses, including fees, books and laboratory expenses, incurred by such student;

"(v) for the school year for which such loan is made, receives no funds from a loan insured under a Federal, State, or nonprofit program provided or assisted under part B of title IV of the Higher Education Act of 1965, and

"(vi) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of the loan need not be paid; and

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and".

(b) Subsection (a)(2) of such section is amended—

(1) by inserting before the semicolon at the end of subparagraph (D) the following: ", except that the note or other written agreement may provide that payment of any interest otherwise payable (i) before the beginning of the repayment period, (ii) during any period described in subparagraph (C), or (iii) during any other period of forbearance of payment of principal, may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal"; and

(2) by striking out "student" in subparagraph (E).

(c) Such section is further amended by adding after subsection (c) the following new subsection:

"(d) No provision of any law of the United States (other than subsections (a)(2)(D) and (b) of this section) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.".

SEC. 6. Notwithstanding any other provision of law, the Secretary may, where he deems advisable, allow the Indian Health Service to utilize nonprofit recruitment agencies to assist in obtaining personnel for the Public Health Service.

SEC. 7. Section 737(1) of the Public Health Service Act, is amended to read as follows:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathy, dentistry, optometry, pharmacy, podiatry, veterinary medicine, and public health within the United States that received a grant, or the Secretary determines met the requirements for receipt of a grant, under section 770 for the preceding fiscal year, provided that for purposes of this subpart, a school shall not be considered ineligible because it does not comply or has not complied with Section 771(b)(3)."

SEC. 8. Section 401(c) (42 U.S.C. 300a-7) of the Health Programs Extension Act of 1973 is amended by adding at the end thereof the following new paragraph:

"(3) No entity under this Act which receives, after the date of enactment of this paragraph, any grant, loan, loan guarantee, or interest subsidy or which enters into any contract with the Secretary of Health, Education, and Welfare may deny admission or otherwise discriminate against any applicant for study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to his religious beliefs or moral convictions.".

Amend the title so as to read: "An Act to amend the conditions for schools receiving capitation grants under section 770 of such Act, and for other purposes.".

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that S. 2159 be indefinitely postponed.

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

UP AMENDMENT NO. 1074

Mr. KENNEDY. Mr. President, I send an amendment to the title 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 Massachusetts (Mr. Kennedy) proposes an amendment to the title, unprinted amendment numbered 1074.

The amendment is as follows:

Amend the title so as to read: "A bill to amend the conditions for schools receiving capitation grants under section 770 of such Act, and for other purposes."

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives 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. MATSUNAGA) ap-

pointed Mr. KENNEDY, Mr. PELL, Mr. NELSON, Mr. HATHAWAY, Mr. WILLIAMS, Mr. CRANSTON, Mr. RIEGLE, Mr. EAGLETON, Mr. SCHWEIKER, Mr. JAVITS, Mr. CHAFEE, Mr. STAFFORD, Mr. HATCH, and Mr. HAYAKAWA conferees on the part of the Senate.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. PELL and Mr. WILLIAMS, I ask unanimous consent that the Senate go into executive session to consider the nomination of Livingston L. Biddle, Jr., to be Chairman of the National Endowment for the Arts.

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

The PRESIDING OFFICER. The nomination will be stated.

NATIONAL ENDOWMENT FOR THE ARTS

The assistant legislative clerk read the nomination of Livingston L. Biddle, Jr., of the District of Columbia, to be Chairman of the National Endowment for the Arts for a term of 4 years.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee reserves the right to object.

Mr. BAKER. And I shall not object. I only wish to advise the distinguished majority leader that if he intends to proceed with other items on this calendar our executive calendar shows that all of the items through page 2 appearing after the new reports are cleared for consideration and confirmation.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

Mr. PELL. Mr. President, I emphasize the delight I feel with this nomination and the confidence and conviction I have that Livingston Biddle will do an excellent job in the job to which the Senate will confirm him.

Mr. WILLIAMS. Mr. President, I associate myself so completely with the statement of the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

DEPARTMENT OF THE TREASURY

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. LEAHY and Mr. STAFFORD, I ask that the Senate proceed to the consideration of the nomination of Stella B. Hackel, of Vermont, to be Director of the Mint for a term of 5 years.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Stella B. Hackel, of Vermont, to be Director of the Mint for a term of 5 years.

Mr. STAFFORD. Mr. President, I state my personal pleasure that Mrs. Hackel has been confirmed as Director of the Mint, especially since I have known her a number of years, and we come from the same home town, Rutland, in the State of Vermont.

Mr. LEAHY. Mr. President, I am also delighted to see the name here on my own behalf, and certainly I am delighted to join in this nomination by Vermont's distinguished senior Senator, and also from a personal point of view in behalf of myself and my family. When I first recommended Mrs. Hackel to President Carter I felt that she was extremely well-qualified. I still do, and I am delighted to see this nomination before us tonight.

The PRESIDING OFFICER. Is there objection? Without objection, the nomination is considered and confirmed.

EXPORT-IMPORT BANK OF THE UNITED STATES

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to the consideration of calendar item 603 on the Executive Calendar.

The assistant legislative clerk read the nomination of Donald Eugene Stingel, of Pennsylvania, to be a member of the Board of Directors of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL COMMISSION ON NEIGHBORHOODS

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to calendar item 604 on the Executive Calendar.

The assistant legislative clerk read the nomination of Joseph F. Timilty, of Massachusetts, to be Chairman of the National Commission on Neighborhoods.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL COMMUNICATIONS COMMISSION

Mr. CRANSTON. Mr. President, I ask unanimous consent that we proceed to Calendar No. 606 on the Executive Calendar.

The assistant legislative clerk read the nomination of Tyrone Brown, of the District of Columbia, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1972.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a statement by Mr. MUSKIE on the nomination of Mr. Tyrone Brown be included in the RECORD at this point.

STATEMENT BY SENATOR MUSKIE—CONFIRMATION OF TYRONE BROWN TO THE FCC

I would like to say a few words about the nomination of Ty Brown as Commissioner of the Federal Communications Commission.

For a year and a half, it was my privilege to have Ty Brown serve as a member of my staff—on my campaign staff, in my Senate office, and later as Staff Director of the Subcommittee on Intergovernmental Relations.

I use the word privilege very deliberately. For it is not often that I have had the opportunity to be served by one both so able and so conscientious as Ty Brown.

Ty worked for me during a very difficult and demanding time period. Yet throughout the years, he stood out—as a quiet but effective soldier—one who could be counted on to do a job and do it well, without succumbing to the delusions of self-importance which snare so many of us in political life.

Ty Brown has more reason than most of us to feel important. At the ripe old age of 34, he has already enjoyed a distinguished career—and has compiled a record of accomplishment which all of us must admire.

He began his professional career with a bang—serving as Managing Editor of the Cornell Law Review and moving on to serve as clerk for Chief Justice Earl Warren. After two years at Covington and Burling and a year and a half on my staff, Ty became Director and Vice President for Legal Affairs of Post-Newsweek Stations, Inc., a position he held for two and a half years. He then joined the distinguished Washington tax firm of Caplin and Drysdale where he remained until his nomination to the FCC.

By his record Ty Brown is clearly a very gifted young man.

But he is also a young man blessed with a strong sense of humility and personal warmth which have made him long-lasting friends all over this temporary town. In other words, in addition to being a very able professional, Ty Brown is also a first-rate human being.

I know that the folks at Caplin and Drysdale will miss Ty—and we appreciate their giving him up. But I also know that his service on the FCC will be a boon—both to the Commission itself and to the public interest as well.

I congratulate Ty on this appointment—the next step up in what promises to be an outstanding career.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the President be notified of all those nominations.

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

LEGISLATIVE SESSION

Mr. CRANSTON. Mr. President, I move that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, the Senate is back in legislative session.

CONSIDERATION OF CERTAIN MEASURES ON THE CALANDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders numbered—if the distinguished minority leader also shows an approval of these—524, 531, 533, 535, 536, 540 through 551.

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

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I will answer the majority leader that the calendar order numbers he referred to are cleared.

Could I inquire did the majority leader begin with Calendar Order No. 524?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Yes.

BILINGUAL, HEARING AND SPEECH IMPAIRED COURT INTERPRETER ACT

The Senate proceeded to consider the bill (S. 1315) to amend title 28, United States Code to provide more effectively for bilingual proceedings in all district courts of the United States, and for other purposes, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Bilingual, Hearing, and Speech Impaired Court Interpreter Act".

SEC. 2. (a) Chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1827. Interpreter in courts of the United States

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of interpreters in courts of the United States.

"(b) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters in courts of the United States in bilingual proceedings and proceedings involving the hearing or speech impaired, and in so doing, the Director shall consider the education, training, and experience of those persons. The Director shall maintain a current master list of all interpreters certified by him and he shall report annually on the frequency of requests for, and the use and effectiveness of, interpreters. The Director shall prescribe a schedule of fees for services rendered by interpreters.

"(c) Each district court shall maintain on file in the office of the clerk of court a list of all persons who have been certified as interpreters (including bilingual interpreters and oral or manual interpreters for the hearing impaired and speech impaired) by the Director of the Administrative Office of the United States Courts in accordance with the certification program established pursuant to subsection (b) of this section.

"(d) In any criminal action or civil action initiated by the United States where the presiding judicial officer determines on his own motion or on the motion of a party that (i) a criminal defendant or a party does not speak the English language, suffers from a hearing impairment, or suffers from a speech impairment which will inhibit comprehension of the proceedings or communication with counsel and the presiding judicial officer, or (ii) in the course of such proceedings, testimony may be presented by any person who does not speak the English language, suffers from a hearing impairment, or suffers from a speech impairment which will inhibit comprehension of questions and presentation of testimony, the presiding judicial officer shall order that the necessary interpretation be provided and shall obtain the services of a certified interpreter for that party or person in accordance with subsection (e) of this section.

"(e)(1) In any action in a court of the United States where the services of an interpreter are to be utilized by the presiding judicial officer, the defendant, a party or non-Government witness, pursuant to a finding of need for interpreter services under subsection (d), the presiding judicial officer, with the assistancne of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter.

"(2) In any action in a court of the United States where the services of an interpreter are to be utilized by the United States attorney for a Government witness, the United States attorney, with the assistance of the Director of the Administrative Office of the United States Courts, shall utilize the services of the most available certified interpreter, or when no certified interpreter is reasonably available, as determined by the presiding judicial officer, the services of an otherwise competent interpreter.

"(3) If any interpreter is unable to communicate effectively with the presiding judicial officer, the United States attorney, the defendant, a party, or a witness, the presiding judicial officer shall dismiss such interpreter and obtain the services of another interpreter in accordance with the provisions of this subsection.

"(4) In all actions not covered by paragraph (1) of this subsection, the person requiring the services of an interpreter may seek assistance of the clerk of court or the Director of the Administrative Office of the United States in obtaining the assistance of a certified interpreter.

"(f)(1) The defendant in any criminal action in a court of the United States, or a party in any civil action in a court of the United States, who is entitled to an interpretation pursuant to a finding of need for interpreter services under subsection (d) may waive the interpretation in whole or in part. Such a waiver must be (i) made expressly by the defendant or party upon the record after the opportunity to consult with counsel and after the presiding judicial officer has explained to the defendant or party, utilizing the services of an interpreter obtained in accordance with subsection (e) of this section, the nature and effect of the waiver, and (ii) approved by the presiding judicial officer.

"(2) A defendant or party who waives his right to an interpreter provided pursuant to subsection (d) may utilize the services of a noncertified interpreter of the person's choice at personal expense.

"(g)(1) In criminal actions and civil actions initiated by the United States, the salaries, fees, expenses, and costs incident to providing the services of an interpreter pursuant to subsection (e)(1) of this section shall be paid by the Director from funds appropriated to the Federal judiciary: *Provided*, That a presiding judicial officer, in his discretion, may direct that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action.

"(2) In criminal actions and civil actions initiated by the United States, the salaries, fees, expenses, and costs incident to providing the services of an interpreter pursuant to subsection (e)(2) of this section shall be paid by the Attorney General from funds appropriated to the Department of Justice: *Provided*, That a presiding judicial officer, in his discretion, may direct that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action.

"(3) Any moneys collected pursuant to this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(h) In any action in a court of the United States where the presiding judicial officer establishes, fixes, or approves the compensation and expenses payable to an interpreter from funds appropriated to the Federal judiciary, the residing judicial officer shall not establish, fix, or approve compensation and expenses in excess of the maximum allowable under the schedule of fees for services prescribed pursuant to subsection (b) of this section.

"(i) The term 'presiding judicial officer' as used in this section includes a judge of the United States, a United States magistrate, a referee in bankruptcy, and a judge in any court created by Act of Congress in a territroy which is invested with any jurisdiction of a district court of the United States.

"(j) The term 'court of the United States' as used in this section includes any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

"(k) The interpretation provided by certified interpreters pursuant to this section shall be in the consecutive mode except that the presiding judicial officer, with the approval of all interested parties, may authorize a summary interpretation when he determines that a summary interpretation will be adequate for the material to be interpreted.

"§ 1828. Special interpretation services

"(a) The Director of the Administrative Office of the United States Courts shall establish a program for the provision of special interpretation services in criminal actions and in civil actions initiated by the United States, when the provision of such services will aid in the efficient adminstraton of justice. The program shall provide a capacity for simultaneous interpretation services in multidefendant criminal actions and multidefendant civil actions, and shall include necessary services for non-English-speaking persons, hearing impaired persons, and speech impaired persons. The presiding judicial officer on his motion or on the motion of a party may order the special interpretation services be provided.

"(b) Upon the request of any person in any action for which special interpretation services established pursuant to subsection (a) are not otherwise provided, the Director, with the approval of the presiding judicial officer, may make such services available to the person requesting the services on a reimbursable basis at rates established in conformity with section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a); *Provided*, That the Director may require the prepayment of the estimated expenses of providing the services by the person requesting them.

"(c) The expenses incident to providing services pursuant to subsection (a) of this section shall be paid by the Director from funds appropriated to the Federal judiciary: *Provided*, That a presiding judicial officer in his discretion, may direct all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in a civil action: *Provided further*, That any moneys collected pursuant to the first pro-

viso of this subsection may be used to reimburse the appropriations obligated and disbursed in payment for such services.

"(d) Appropriations available to the Director shall be available to provide services in accordance with subsection (b) of this section: *Provided,* That moneys collected by the Director pursuant to that subsection may be used to reimburse the appropriations charged for such services: *Provided further,* That a presiding judicial officer, in his discretion, may direct that all or part of the expenses shall be apportioned between or among the parties or shall be taxed as costs in the action.

"(e) The term 'presiding judicial officer' as used in this section includes a judge of the United States, a United States magistrate, a referee in bankruptcy, and a judge in any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.".

(b) The analysis of chapter 119 of title 28, United States Code, is amended by adding at the end thereof the following:

"1827. Interpreters in courts of the United States.

"1828. Special interpretation services.".

SEC. 3. Section 42 of the Puerto Rico Federal Relations Act (48 U.S.C. 864) is amended by striking out the last sentence of such section and inserting the following new sentences: "Initial pleadings in the United States District Court for the District of Puerto Rico may be filed in either the Spanish or English language and all further pleadings and proceedings shall be in the English language, unless upon application of a party or upon its own option, the court, in the interest of justice, orders that the further pleadings or proceedings, or any part thereof, shall be conducted in the Spanish language. The written orders and decisions of the court shall be in both the Spanish and English languages. If an appeal is taken of a trial or proceeding conducted in whole or part in the Spanish language, the record or necessary portions of it, shall be translated into the English language. The cost of the translation shall be paid by the district court or by the parties, as the judge may direct. All appellate documents shall be in the English language.

SEC. 4. (a) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1869a. Language requirements in Commonwealth of Puerto Rico

"No person shall be disqualified for service on a grand or petit jury summoned in the Commonwealth of Puerto Rico solely because such person is unable to speak, read, write, and understand the English language if such person is able to speak, read, write and understand the Spanish language.".

(b)(1) Section 1865(b) of such title is amended by striking out "In making" and inserting in lieu thereof "Except as provided in section 1869a of this title, in making".

(2) Section 1869(h) of such title is amended by inserting after "English language" the following: "(except as provided in section 1869a of this title)".

(c) The analysis of such chapter 121 is amended by adding at the end thereof the following new item:

"1869a. Language requirements in Commonwealth of Puerto Rico.".

SEC. 5. Section 604(a) of title 28, United States Code, is amended—

(a) by striking out paragraph (10) and inserting in lieu thereof:

"(10)(A) Purchase, exchange, transfer, distribute, and assign the custody of lawbooks, equipment, supplies, and other personal property for the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (17)); (B) provide or make available readily to each court appropriate equipment for the interpretation of proceedings in accordance with section 1828 of this title; and (C) enter into and perform contracts and other transactions upon such terms as he may deem appropriate as may be necessary to the conduct of the work of the judicial branch of Government (except the Supreme Court unless otherwise provided pursuant to paragraph (16)): *Provided,* That contracts for nonpersonal services for pretrial services agencies, for the interpretation of proceedings, and for the provision of special interpretation services pursuant to section 1828 of this title may be awarded without regard to section 3709 of the Revised Statutes of the United States, as amended (41 U.S.C. 5);";

(b) by redesignating paragraph (13) as paragraph (17); and

(c) by inserting after paragraph (12) the following new paragraphs:

"(13) Pursuant to section 1827 of this title, establish a program for the certification and utilization of interpreters in courts of the United States;

"(14) Pursuant to section 1828 of this title, establish a program for the provision of special interpretation services in courts of the United States;

"(15)(A) In those districts where the Director considers it advisable based on the need for interpreters, authorize the full-time or part-time employment by the court of certified interpreters; (B) where the Director considers it advisable based on the need for interpreters, appoint certified interpreters on a full-time or part-time basis, for services in various courts when he determines that such appointments will result in the economical provision of interpretation services; and (C) pay out of moneys appropriated for the judiciary interpreters' salaries, fees, and expenses, and other costs which may accrue in accordance with the provisions of sections 1827 and 1828 of this title;

"(16) In his discretion, (A) accept and utilize voluntary and uncompensated (gratuitous) services, including services as authorized by section 3102 of title 5, United States Code; and (B) accept, hold, administer, and utilize gifts and bequests of personal property for the purpose of aiding or facilitating the work of the judicial branch of Government: *Provided,* That gifts or bequests of money shall be covered into the Treasury;".

SEC. 6. Section 604 of title 28, United States Code, is amended further by inserting after subsection (e) the following new subsections:

"(f) The Director may make, promulgate, issue, rescind, and amend rules and regulations (including regulations prescribing standards of conduct for Administrative Office employees) as may be necessary to carry out his functions, powers, duties, and authority. The Director may publish in the Federal Register such rules, regulations, and notices for the judicial branch of Government which he determines to be of public interest; and the Director of the Federal Register hereby is authorized to accept and shall publish such materials.

"(g)(1) When authorized to exchange personal property, the Director may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired: *Provided.* That any transaction carried out under the authority of this subsection shall be evidenced in writing.

"(2) The Director hereby is authorized to enter into contracts for public utility services and related terminal equipment for periods not exceeding ten years.".

SEC. 7. Section 602 of title 28, United States Code, is amended by striking out the present section and inserting in lieu thereof the following:

"§ 602. Employees

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

"(b) Notwithstanding any other law, the Director may appoint certified interpreters in accordance with section 604(a)(15)(B) of this title without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

"(c) The Director may obtain personal services as authorized by section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the highest rate payable under the General Schedule pay rates, section 5332 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided, however,* That the compensation of any person appointed under this subsection shall not exceed the annual rate of basic pay payable under the general schedule, section 5332 of title 5, United States Code.

"(d) All functions of other officers and employees of the Administrative Office and all functions of organizational units of the Administrative Office are vested in the Director. The Director may delegate any of his functions, powers, duties, and authority (except the authority to promulgate rules and regulations) to such officers and employees of the judicial branch of Government as he may designate, and subject to such terms and conditions as he may consider appropriate; and may authorize the successive redelegation of such functions, powers, duties, and authority as he may deem desirable. All official acts performed by such officers and employees shall have the same force and effect as though performed by the Director in person.".

SEC. 8. Section 603 of title 28, United States Code, is amended by striking the second paragraph thereof.

SEC. 9. Section 1920 of title 28, United States Code, is amended by inserting after paragraph (5) the following new paragraph:

"(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.".

SEC. 10. Section 5(b) of the Act of September 23, 1959 (Public Law 86-370, 73 Stat. 652), is repealed.

SEC. 11. There are authorized to be appropriated to the judicial branch of Government such sums as may be necessary to carry out the amendments made by this Act.

SEC. 12. The amendments made by this Act shall take effect on October 1, 1978.

Mr. MATHIAS. Mr. President, I am pleased to join the distinguished Senator from Arizona, chairman of the Subcommittee on Improvements in Judicial Machinery, in urging passage of S. 1315, the Bilingual, Hearing and Speech Impaired Court Interpreter Act.

On February 25, 1977, I introduced S. 819, the Interpreters for the Hearing Impaired Act. My purpose in authorizing that legislation was to insure that merely because of a loss of hearing a person's right to due process under the law would not be jeopardized.

S. 1315 represents a consolidation of S. 819a with piece of legislation introduced by Senator DECONCINI providing for translation services for non-English speaking people in Federal courts. The bill before us guarantees greater access to Federal courts for all people by as-

suring that the non-English-speaking and the hearing- and speech-impaired will have available to them qualified interpreters when needed.

I have long championed the cause of full access to our Federal courts for all people. In the last Congress I cosponsored the predecessor to the legislation now before us, S. 565, the Bilingual Courts Act. S. 565 was intended to apply to non-English-speaking, hearing- and speech-impaired individuals alike, and although it was approved by the Senate, final approval by the House was not gained before the end of the Congress.

I am convinced that S. 1315 is an improvement over its predecessor bill and will more adequately insure that all of these persons will be granted full access to Federal courts. Therefore, Mr. President, I strongly urge that my colleagues approve this vital piece of legislation.

Mr. DOLE. Mr. President, I rise in support of the Bilingual, Hearing and Speech Impaired Interpreter Act. A bill that will insure that all participants in our Federal courts can meaningfully take part by assuring that if the participant speaks and understands a language other than English, or has a hearing or speech impediment, he will have access to qualified interpreters.

JUSTICE FOR ALL

Mr. President, in recent years we have witnessed a national effort to make the benefits of our legal system more meaningful to all Americans. Today, I hope that we can adopt this measure as the Senate did in the 93d and 94th Congresses. The Senator from Kansas hopes that the House of Representatives will see its way clear, this year, to act favorably on this vitally important legislation.

LONG-TIME NEGLECT

Mr. President, Americans who speak other than the English language are victims of generations of neglect. When seeking legal redress for wrongs inflicted upon them or when defending themselves in criminal or civil actions, they have had to participate, to the best of their ability, in legal proceedings where the language used was other than the language they spoke and understood.

The measure before the Senate today attempts to remedy many of the inequities that now exist in our court system. By providing translation services for persons who speak and understand other than the English language, a long and overdue effective participation in the Federal court system will be realized.

LANGUAGE AND OTHER BARRIERS

This Senator believes that a language barrier is one of the primary causes preventing many Americans from becoming involved in our judicial system. The lack of our court system's multilingual capability and interpreter services for hearing or speech impaired persons not only affects their ability to defend themselves in the court room, but also the motivation to do so.

THE BILINGUAL COURTS ACT IS IN OUR COUNTRY'S INTEREST

Mr. President the Senator from Kansas believes we have waited long enough to secure the rights of Americans who speak other than the English language. Mr. President, I urge the Senate to act in our country's interest by once again adopting this very important piece of legislation.

UP AMENDMENT NO. 1075

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. DECONCINI I called up a bill, and I believe the distinguished minority leader has an amendment to propose on behalf of a Senator on his side of the aisle.

Mr. BAKER. Mr. President, on behalf of the distinguished junior Senator from Kansas (Mr. DOLE) I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. DOLE proposes unprinted amendment numbered 1075.

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

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

The amendment is as follows:

On page 7, lines 13 and 14, strike out "does not speak the English language" and insert "speaks only a language other than the English language".

On page 7, line 19, strike out "does not speak the English language" and insert "speaks only a language other than the English language".

On page 12, line 2, strike out "non-English-speaking persons" and insert "persons who speak only a language other than the English language".

Mr. DOLE. Mr. President, I am pleased to see that the distinguished floor managers of this bill have agreed to my amendment.

The Senator from Kansas felt there was a need to change the negative expression—"does not speak the English language" to a positive expression—"speaks only a language other than the English language."

While this amendment may only appear to rearrange certain bill language, the Senator from Kansas believes it will address a long-time concern on the part of Americans who speak other than the English language, particularly Americans of Hispanic origin.

Again, I want to express my appreciation to the distinguished floor leaders of this bill for supporting and agreeing to my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

An Act to provide more effectively for the use of interpreters in courts of the United States, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-569), explaining the purposes of the measure.

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

PURPOSE OF THE AMENDMENT

The bill as originally introduced provided for translation services only for non-English-speaking people in the Federal courts. The bill as amended expands the provision of interpretation services to the hearing and speech impaired and also provides for the possible use of Spanish in the District Court of Puerto Rico.

PURPOSE OF THE BILL AS AMENDED

The purpose of the bill is to insure that all participants in our Federal courts can meaningfully take part by assuring that if the participant does not speak or understand English, or has a hearing or speech impairment, he will have access to qualified interpreters, if needed. It also allowss a limited use of Spanish in the District Court of Puerto Rico when it is found by the court to be in the interest of justice.

BACKGROUND AND NEED

This bill is very similar in principle to bills passed by the Senate during each of the previous two Congresses (S. 1724 in the 93d Congress and S. 565 in the 94th Congress). The House did not complete action on either of those bills. The structure of this bill differs from previous Senate bills but the emphasis remains the same—to insure that participants in our Federal courts can meaningfully take part in proceedings by assuring that if the participant does not speak or understand English, or has a hearing or speech impairment, that he will have access to qualified interpreters. Hearings on the need for interpreters in a bilingual situation were held by the Subcommittee on improvements in Judicial Machinery in 1973 and 1974. The committee feels that the same evidence of a need for interpreters expressed in those hearings, which were the basis for S. 565 in the 94th Congress, holds true today and that an analogous need exists to provide interpreters for the hearing and speech impaired.

The proposals contained in this legislation are certainly not novel or revolutionary. The right of parties to have interpretation services exists in the present law. Rules of court procedure now gives the court discretionary power to appoint interpreters in appropriate situations. The Federal Rules of Civil Procedure, Rule 43(f), provides as follows:

The court may appoint an interpreter of its own selection and may fix his reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties, as the court may direct, and may be taxed ultimately as costs, in the discretion of the court.

The Federal Rules of Criminal Procedure, Rule 28(b), provides as follows:

The court may appoint an interpreter of its own selection and may fix the reasonable compensation of such interpreter. Such compensation shall be paid out of funds provided by law or by the Government, as the court may direct.

The advisory committee note states that "general language is used to give discretion to the court to appoint intepreters in all appropriate situations." The advisory committee note goes on to state "interpreters may be needed to interpret the testimony on non-English-speaking witnesses or to assist non-English-speaking defendants in understanding a proceeding or in communicating with assigned counsel."

It is clear that under existing court rules of procedure, the court now has discretionary power to appoint interpreters in "appropriate situations".

The Criminal Justice Act of 1964, as amended, has also had a great impact on the provision of court interpreters, 18 U.S.C. 30006A(e)(1) provides as follows:

Counsel for a person who is financially unable to obtain investigative, expert or other services necessary for an adequate defense may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the person is financially unable to obtain them, the court, or the United States magistrate if the services are required in connection with a matter over which he has jurisdiction, shall authorize counsel to obtain the services.

The Criminal Justice Act Guidelines, as promulgated by the Judicial Conference of the United States make clear that this section applies to services of interpreters. Guidelines for the Administration of the Criminal Justice Act § IIIB(4) (1970). It is a near certainty that whenever a non-English-speaking defendant has counsel appointed under the act, interpretation services are always provided to that defendant.

To the extent that the hiring of an interpreter by a defendant with retained counsel would impose a financial hardship, again the CJA Guidelines make clear that services of an interpreter would be provided under the act at the expense of the United States. Guidelines for the Administration of the Criminal Justice Act § IIIA(1) (1970). Although the committee has been made aware of no case in which the issue of appointment of an interpreter for a hearing or speech impaired individual has arisen, we are convinced that no difference exists between the case of a hearing or speech impaired individual and that of a non-English-speaking individual and that an interpreter would be provided the physically handicapped individual under the provisions of the CJA.

Case law on the right of a defendant to an interpreter in a criminal proceeding is sparse; however, this right appears to have been limited to defendants who cannot effectively communicate with counsel and who lack the financial resources to hire an interpreter. Compare *United States ex rel. Negron* v. *State of New York*, 310 F. Supp. 1304, 1307 (E.D.N.Y.), aff'd 434 F. 2d 386 (2nd Cir. 1970), with *United States* v. *Desist*, 384 F. 2d 889 (2nd Cir. 1967), aff'd, 394 U.S. 244 (1968).

It has also been brought to the committee's attention that a constitutional right may exist under the fifth and sixth amendments to the Constitution. The sixth amendment states that in "all prosecutions, the accused shall * * * be confronted with the witnesses against him * * * and shall have the Assistance of Counsel in his defense." The fifth amendment provides that "No person shall be deprived of life, liberty, or property without due process of law." The question is raised as to how these guarantees can be assured if a party does not understand the language used in the courtroom unless he has the right to an interpreter. See *Desist*, supra, for a discussion of the constitutional right to an interpreter.

In the United States today there are approximately five million people who experience difficulty with the English language. Estimates cover a broad range concerning the number of hearing and speech impaired individuals who may need to avail themselves of a court interpreter to meaningfully participate and understand Federal court proceedings. The commitee recognizes that through the promulgation of rules and guidelines, great steps have been made to insure that certain classes of individuals are assured access to a court interpreter. The committee, however, while leading these efforts, feels the time has come to provide by statute for the provision of and access to qualified certified interpreters, for a broader spectrum of people than the present law allows.

The U.S. District Court for the District of Puerto Rico sits in a judicial district in which half the population does not speak English. Census figures for 1970 indicate that 57.3 percent of the people over the age of 10 living in Puerto Rico do not speak English. Those figures also state that 59.2 percent of the women and 75.2 percent of persons over 60 speak no English. Persons who were classified by the Census Bureau as being able to speak English were so classified if they reported that they were able to speak English. For this reason, the percentages cited above in all probability overstate the percentage of people able to comprehend complicated judicial proceedings conducted in English.

Despite this, present Federal law requires that proceedings in the Federal district court in Puerto Rico be conducted only in English, 48 U.S.C. 864, and, similarly, that only persons able to understand English may serve as jurors. Under 28 U.S.C. 1865, persons "unable to speak the English language", or "unable to read, write and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form" may not serve on grand or petit juries in Federal district courts. Accordingly, these statutes not only require that all proceedings in Federal court be conducted in a language which is foreign to over half the people in the judicial district, but also eliminates half the population from possible service on juries in cases conducted in Federal court.

The language problem becomes more acute in criminal cases. It may be presumed that bilingual ability is most likely more prevalent among the more affluent and better educated than among the less affluent and less educated of Puerto Rico's citizens. It may also be presumed that the less educated and less affluent comprise most of the criminal defendants appearing in Federal courts. In fact, during the hearings on legislation similar to sections 3 and 4, which was considered by the 93d Congress, it was reported that 75 percent of the criminal defendants in Federal court do not speak English and require interpeters. See Hearings on S. 1724 before the Subcommittee on Improvements in Judicial Machinery, 93d Congress, 1st session, at 117. During those same hearings Francisco de Jesus Schuck, Secretary of Justice of Puerto Rico, stated that a sampling conducted by the Chief Judge of the district court for Puerto Rico indicated that more than 78 percent of the criminal defendants could not speak English. *Id.* at 155.[1] Although interpreters are provided, there is no doubt that conducting criminal trials in language which defendants can understand results in fairer and more efficient proceedings.

The English language requirement for jury service results in a jury panel which is often more "white collar" than would be a cross section of the general population of the island. This result runs counter to the policy of the "Jury Selection and Service Act of 1968", Public Law 90–274, 28 U.S.C. 1861 et seq., which states that "all litigants in Federal courts entitled to trial by jury shall have the right to . . . juries selected at random from a fair cross-section of the community." Sec. 101, 28 U.S.C. 1861. In denying over half the population of Puerto Rico the right to serve on a Federal jury, present Federal law also runs contrary to that portion of the U.S. policy which states that "all citizens shall have the opportunity to be considered for service" on Federal juries. Id.

In certain instances the English language requirement may result in a denial of a litigant's choice of counsel. The local courts in Puerto Rico conduct their proceedings in Spanish, all members of the local bar speak Spanish, and the bar exam is conducted in Spanish. For that reason, on occasion an individual with a lawyer who speaks only Spanish may require new counsel when required to appear in Federal court. In addition, the English-only requirement of present Federal law may discourage some local attorneys not conversant in English to forego legitimate resort to the Federal court. See testimony of Judge Jose Toledo, Chief Judge of the U.S. District for Puerto Rico, at 1973 Hearings, *supra*, at 131.

Interpretive services are, of course, presently provided in federal court for parties and/or witnesses who do not speak English. For matters as specific as the examination and cross-examination of witnesses, however, translation can never be as accurate as verbal exchange in a language both the attorney and witness can understand.

The use of interpreters itself is, on occasion, a problem. The delays occurring when English proceedings are translated into Spanish for litigants who do not speak English would be obviated if proceedings, in appropriate circumstances, could be held in Spanish.

Previous consideration of the use of Spanish as well as English in the Federal district court in Puerto Rico was postponed to await the outcome of study by the Ad Hoc Advisory Group on Puerto Rico, an advisory commission created in 1973 to study the relationship between the United States and Puerto Rico. See Senate Report No. 94–267, 94th Congress, 1st session, pp. 6–8. The Ad Hoc Group has now completed its work and among other recommended changes in the application of federal laws to Puerto Rico, has recommended:

The Advisory Group believe that the interests of justice would best be served if proceedings, pleadings and records in the Federal District Court for the Free Associated State were conducted in Spanish. The Compact makes adequate provision for the Court to determine those instances when proceedings in Spanish would not be in the interest of justice and to conduct the proceeding in English.

Review of the proceedings in Spanish of the Federal District Court for the District of Puerto Rico by an English speaking tribunal should not give rise to unforeseen administrative problems. Appeals from the Commonwealth courts, made until recently to the Court of Appeals of the First Circuit and now to the U.S. Supreme Court have necessitated translation from Spanish to English since 1900. This procedure has not caused an undue administrative burden on the courts or foreclosed justice to the litigants. Report, October 1, 1975, pp. 40–41.

Members of the Commission were appointed either by the President or by the Governor of Puerto Rico.

[1] Among those testifying in favor of this proposal at previous hearings were Secretary Schuck, Congressman Jaime Benitez and Judge Jose Toledo, the Chief Judge of the U.S. District Court for the District of Puerto Rico.

JIN SYEN SUH

The Senate proceeded to consider the bill (S. 1154) for the relief of Jin Syen Suh, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "Jim" and insert "Jin";

On page 1, line 4, strike "shall" and insert "may";

On page 1, line 5, strike "such" and insert "the";

On page 1, beginning with line 6, strike through and including page 2, line 1, and insert the following: "upon approval of a petition filed in her behalf by Major and Mrs. Jerry M. Free, citizens of the United States, pursuant to section 204 of the Act. The parents, brothers, and sisters of the ben-

eficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Jin Syen Suh may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Major and Mrs. Jerry M. Free, citizens of the United States, pursuant to section 204 of the Act. The parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-577), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the entry into the United States as an immediate relative of the adopted child of U.S. citizens. The purpose of the amendments is to conform the language of the bill to establish precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 16-year-old native and citizen of Korea who currently resides in that country, where she attends the Taegu American School. She was adopted by Maj. and Mrs. Jerry Free on December 31, 1975. Major Free was stationed in Korea with the U.S. Army. He and his wife have four children of their own, but decided to adopt the beneficiary to give her an opportunity for a better life in the United States.

ACCOMMODATIONS FOR JUDGES OF THE COURT OF APPEALS

The bill (H.R. 2770) to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-579), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

"It is the purpose of the proposed bills to amend title 28 of the United States Code to provide accommodations for judges of the U.S. courts of appeals at places other than those where regular terms of court are authorized by law to be held, if (1) such accommodations have been approved as necessary by the judicial council for the appropriate circuit, and (2) space is available without cost to the Government.

Such an amendment would deter the proliferation of additional statutorily designated places for holding district court, eliminate one factor now contributing to inefficient utilization of judicial resources, and alleviate an inconvenience for circuit court judges which the Congress never intended to impose upon them when it last amended section 142 of title 28 in 1962.[1]

BACKGROUND

At present all U.S. courts of appeals sit in "principle" locations, and several occasionally sit in one or more "additional" locations within their circuits, for the purpose of hearing oral arguments. In most instances, both the "principle" and "additional" locations have been statutorily designed by the Congress, in 28 U.S.C. § 48, as places at which "terms or sessions of courts of appeals shall be held annually." In certain instances, however, "terms or sessions" may be held, again in accordance with 28 U.S.C. § 48, "at such other places within the respective circuits as may be designated by rule of the court." In very rare instances, under yet another provision of 28 U.S.C. § 48, which states that: "Each court of appeals may hold special terms at any place within its circuit," oral arguments may be heard at a location which is not designated by either statute or court rule. Such "special terms" are usually held as a courtesy or convenience for local or State governments.

Today there are 97 "active" circuit judges and 43 "senior" circuit judges who comprise the "pool" from which panels of 3 judges are drawn to sit. Occasionally a district court judges, in either active or senior status, is invited to sit with two circuit judges on such a panel.

When circuit judges are not sitting on such panels, or en banc, however, they work "in chambers" in quarters located in the communities in which they actually reside. In fact, although "non-resident offices" are available for circuit judges at the "principle" places where courts of appeals sit for purposes of oral argument, full facilities and accommodations for a circuit court judge and his staff have for years been provided only at the location where the judge normally performs his "in chambers" work. Because most circuit court judges normally perform their "in chambers" work in the communities in which they reside, their facilities and accommodations at such locations have been traditionally referred to as "resident chambers."

When "the Judicial Code" was "recodified" in 1948, section 142 of title 28, United States Code, was enacted as follows:

§ 142. Accommodations at places for holdings court.—Court shall be held only at places where Federal quarters and accommodations are furnished without cost to the United States.[2]

In 1962, however, the section was amended by adding to the language cited, supra, the following sentence:

The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available *at places where regular terms of court are authorized by law to be held,* but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.[3]

In explaining the purpose of that 1962 amendment the House Judiciary Committee noted that the 1948 language, standing alone:

. . . has the effect of precluding the use of Federal funds for the purpose of providing facilities *for the U.S. district courts* by new construction, remodeling of existing Federal buildings, or otherwise, at locations where court facilities have not previously been provided in Federal buildings. Consequently, it has been necessary to obtain a waiver of the provisions of section 142 by specific legislative action in each instance to permit the provision of court facilities at such locations.[4]

Citing recent legislation creating additional federal judgeships and the resulting need for "improved and additional court space," the committee noted that:

Enactment of this legislation would eliminate the delays now caused by the necessity for obtaining special legislation with respect to those locations where section 142 applies, and permit discontinuance of the undersirable practice of securing such individual waivers, and would permit the provision and development of more satisfactory court facilities, with improved operation of the courts.[5]

In essence, the original 1948 legislation, designed to limit the number of places where district court "shall be held" to those locations where quarters and accommodations then existed, was amended to both (1) accommodate a growing court system and (2) eliminate the "undesirable practice" of the judiciary having to seek "specific legislative action in each instance" to overcome "the effect of precluding the use of Federal funds for the purpose of providing facilities for the U.S. district courts."

That legislative history would appear to justify the conclusion that 28 U.S.C. § 142 is a provision applicable to district courts only. Given the section's placement in chapter 5 of title 28, that chapter which is clearly designed to statutorily govern organization of the district courts, and the legislative history discussed supra, a sound argument might be made that Congress at no time intended section 142 to be applied to circuit courts, which are organized under chapter 3 of title 28. In 1948 and 1962, the practice which now is followed by providing circuit court judge with "resident chambers" in their home communities prevailed nationwide. Had that practice been a matter of concern to Congress, appropriate language could have been added to section 48 of chapter 3 of title 28, that section which governs places where circuit court "shall be held."[6] The absence of such language would seem to justify a finding that section 142 should not be deemed applicable to the establishment of "resident chambers" for courts of appeal judges. That finding is impeded, however, by a provision in the 1948 recodification legislation, which states that:

No inference of a legislative construction is to be drawn by reason of the chapter in Title 28 * * * in which any section is placed, nor by reason of the catchlines used in such title.[7]

Thus, today, if a community in which a circuit court judge resides is not a place "where regular terms of court are authorized by law to be held," either under chapter 3 or chapter 5 of title 28, section 142 precludes the Administrative Office of the U.S. courts from providing that judge with "resident chambers" in his home community, even if Federal facilities exist and are available at no additional cost to the Government. This situation has been in existence since 1962, and not surprisingly, the solution has been very much like the "undesirable practice" the 1962 amendment was designed to eliminate. The solution has been "specific legislative action in each instance" to authorize the subject community as a place where district court "shall be held." Since 1962, 16 different public laws have been enacted to "designate 21 additional communities" as "places where court shall be held."[8]

On March 13, 1973, Senator Marlow Cook of Kentucky introduced S. 1175, 93d Congress, 1st session, a bill to amend section

Footnotes at end of article.

142, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. As introduced, S. 1175 would have added the following sentence to section 142:

The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

The bill was formally referred to the Senate's Subcommittee on Improvements in Judicial Machinery, and transmitted to the Judicial Conference of the United States for its views. The Conference, acting upon the recommendations of its Committee on Court Administration, approved S. 1175 at its April 1973 session.[9] Following receipt of those Conference views, the Senate subcommittee took no further action on S. 1175 during the 93d Congress.

In September of 1975 the Judicial Conference therefore "reendorsed" its approval of S. 1175, 93d Congress, and instructed the Director of the Administrative Office of the U.S. Courts to "transmit such legislative proposal to the 94th Congress."[10] Several bills embodying the Judicial Conference's proposal were thereafter introduced: H.R. 10574, 94th Congress, 2d session, by Congressmen Carter and Mazzoli of Kentucky; H.R. 12182, 94th Congress, 2d session, by Congressmen Brooks and Poage of Texas; and S. 2749, 94th Congress, 2d session, by Senators Huddleston and Ford of Kentucky. Beyond referral to subcommittee, no action was taken on S. 2749 during the 94th Congress. The House bills, however, were referred to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and 1 day of hearings was held on May 20, 1976. Appearing on behalf of the Judicial Conference, William E. Foley, Deputy Director of the Administrative Office of the U.S. Courts, fully supported the amendment of section 142 of title 28, United States code. Unfortunately, the press of business before the subcommittee prevented favorable action prior to the adjournment of the 94th Congress.

OVERSIGHT

Oversight of the Administrative Office of U.S. Courts which provides administrative support for judges of the court of appeals is the responsibility of the Committee on the Judiciary. The legislation arose, in part, from the committee's perception of the needs of the Federal judiciary as expressed in the oversight process.

STATEMENT OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to the Rules of the Senate, and the Congressional Budget Act of 1974, the following is the cost estimate on H.R. 2770 prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., November 2, 1977.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2770, a bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States, as ordered reported by the Senate Committee on the Judiciary, November 2, 1977.

Based on this review, it appears that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

ESTIMATED COST OF THE LEGISLATION

The committee estimates that the legislation will result in no additional cost to the United States.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 142 OF TITLE 28, UNITED STATES CODE

§ 142. Accommodations at places for holding court.

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where regular terms of court are authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit. The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

FOOTNOTES

[1] Act of Oct. 9, 1962, Public Law No. 87-764, 76 Stat. 762.

[2] Public Law No. 773, 80th Cong., 2d sess., ch. 646 (June 25, 1948), 62 Stat. 898.

[3] Note 1, *supra* (italic added).

[4] H.R. Rept. No. 2340, 87th Cong. 2d sess. 2 (1962) (italic added).

[5] Id.

[6] See text *supra*, at 1-2.

[7] See Public Law No. 773, 80th Cong., 2d Sess., § 33 (June 25, 1948), 62 Stat. 991.

[8] See the "Legislative History" notes following section 142 in 28 U.S.C. (1970 ed.).

[9] See "Annual Report of the Proceedings of the Judicial Conference of the United States, Apr. 5-6, 1973," at 4.

[10] See "Annual Report of the Proceedings of the Judicial Conference of the United States, Sept. 5-6, 1975," at 49.

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1977

The Senate proceeded to consider the bill (S. 1215) to provide for grants to Indian-controlled postsecondary educational institutions, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1977".

DEFINITIONS

SEC. 2. For purposes of this Act, the term

(1) "Indian" means a person who is a member of an Indian tribe and is eligible to receive services from the Secretary of the Interior;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable;

(6) "national Indian organization" means an organization which is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education; and

(7) "Indian full-time equivalent student" means the number of Indians enrolled full-time, and the full-time equivalent of the number of Indians enrolled part-time, in each tribally controlled community college.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSES

SEC. 101. It is the purpose of this title to provide grants for the planning and development, operation, and improvement of tribally controlled community colleges to insure continued and expanded higher educational opportunities for Indian students.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary is authorized to make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this section may be used for the planning and development of educational programs and activities, basic operational costs, employment of instructional and administrative personnel, curriculum development, student services, and community service programs of tribally controlled community colleges. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title a tribally controlled community college shall—

(1) be governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrate adherence to a stated philosophy, stated goals, or a plan of operation which primarily serves American Indians;

(3) have a majority of students who are American Indians.

TECHNICAL ASSISTANCE

SEC. 104. The Secretary shall provide, upon request, technical assistance to tribally controlled community colleges either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted, or in the event the college does not designate such organization the Secretary shall give preference to Indian organizations.

FEASIBILITY STUDIES

SEC. 105. (a) The Secretary is authorized, upon the request of an Indian tribe to assist in the planning and development of feasibility studies to determine whether there is justification to start and maintain a tribally controlled community college.

(b) The Secretary, within thirty days after a request by an Indian tribe, shall initiate such feasibility study, and upon a positive determination, aid in the preparation of grant applications and related budgets which will insure successful operation of such college.

(c) The Secretary shall consult with the tribal government chartering the college being considered and to the extent practicable with national Indian organizations to determine the reasonable number of students re-

quired to support such tribally controlled community college. The Secretary shall consider such factors as tribal and cultural differences, isolation, and proposed curriculum.

(d) This section does not apply to a tribally controlled community college which meets the eligibility requirements in section 103.

(e) Funds to carry out the provisions of this section for any fiscal year may be drawn from—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 10 per centum of the funds appropriated to carry out section 106 for such fiscal year.

(f) The Secretary shall consult with Indian tribes and national Indian organizations in developing plans, procedures, and criteria for conducting the feasibility studies required by this section.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 106. (a) Grants shall be made under this title only upon application by tribally controlled community colleges.

(b) Priority in grants shall be given to tribally controlled community colleges which are operating on the date of enactment of this Act and which have a history of service to the Indian people.

(c) The Secretary shall report to Congress on January 15 of each year the current status of tribally controlled community colleges and his recommendations for needed action.

GRANT FORMULA AND PAYMENTS

SEC. 107. (a) Each fiscal year the Secretary shall grant to each tribally controlled community college having an approved application, the aggregate of $125,000 plus an additional amount of $5,850 for each Indian full-time equivalent student in attendance at such institution.

(b) With respect to grants made after the first full fiscal year following the date of enactment of this Act, the Secretary may increase the per student amounts specified in subsection (a) of this section to reflect increases in costs beyond the control of the tribally-controlled community colleges.

(c) The Secretary may make payments pursuant to grants under this title in advance installments, not less than 50 per centum of the annual allocation to the eligible college, based on anticipated or actual numbers of Indian full-time equivalent students or such other factors as the Secretary determines to be appropriate with such adjustments for previous overpayments or underpayments, as may be necessary.

EFFECT ON OTHER PROGRAMS

SEC. 108. Eligibility for assistance under this title shall not supplant eligibility to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions. Eligibility under this title shall not reduce the level of funding for such programs. Assistance under any program authorized by such Higher Education Act of 1965 or any other program for which the Commissioner of Education, Department of Health, Education, and Welfare, has responsibility for administration, either by statute or by delegation shall be considered as supplemenal to the assistance authorized under this title.

REPORT ON FACILITIES

SEC. 109. (a) The Secretary shall, not later than ninety days after the date of enactment of this Act, prepare and submit to the Congress a report containing a survey of existing and planned physical facilities of tribally-controlled community colleges together with his recommendations concerning meeting the needs of such institutions for improved and additional facilities, including a survey of existing and planned Bureau of Indian Affairs facilities which may be used for tribally controlled community colleges without disruption of current Bureau programs.

(b) The report under this section shall be done in consultation with Indian tribes and national Indian organizations.

APPROPRIATIONS AUTHORIZED

SEC. 110. (a)(1) There is authorized to be appropriated $30,000,000 for the first fiscal year beginning after the enactment of this Act and for the next succeeding fiscal year, and $35,000,000 in the third fiscal year following such date of enactment. The amount of such authorizations for fiscal years following the first full fiscal year after enactment of this Act shall be increased by the amount of any portions of the authorization available for the prior fiscal year for which funds were not appropriated.

(2) There is authorized to be appropriated in the fourth fiscal year following the date of enactment of this Act any unappropriated portion of the authorization available for the third such fiscal year.

(b) There are authorized to be appropriated $3,200,000, in the aggregate, for the provision of technical assistance grants to section 104 of this title.

(c) Unless otherwise provided in appropriations Acts, funds appropriated pursuant to this section shall remain available until expended.

(d) Funds appropriated pursuant to this section shall not be expended for any other purpose except as authorized in this title.

GRANT ADJUSTMENTS

SEC. 111. (a) If the sums appropriated for any fiscal year for grants under this title are not sufficient to pay in full the total amounts which approved grant applicants are eligible to receive under this title for that fiscal year, the amounts which such applicants are eligible to receive under this title for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for the same fiscal year, such reduced amounts shall be ratably increased. Sums appropriated in excess of the amount necessary to pay in full such total eligible amounts shall be allocated by ratably increasing such total eligible amounts.

(b) In any first year in which the amounts for which grant recipients are eligible have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, except that no grant recipient shall receive more than the amount provided for under section 107(a) of this title.

RULES AND REGULATIONS

SEC. 112. (a) Within four months after the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with Indian tribes and national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months after the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months after the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

MISCELLANEOUS PROVISIONS

SEC. 113. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

TITLE II—NAVAJO COMMUNITY COLLEGE

SEC. 201. Section 4 of the Act entitled "An Act to authorize grants for the Navajo Community College, and for other purposes", approved December 15, 1971 (85 Stat. 646), is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 4. (a) For the purpose of making grants under this Act, there is hereby authorized to be appropriated for each of the fiscal years 1979, 1980, 1981, 1982, and 1983, the sum of $10,500,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1977 construction costs as indicated by engineering cost indexes applicable to the types of construction involved.

"(b) There is further authorized to be appropriated to the Navajo Community College, for operation and maintenance of the college, for each fiscal year an amount equal to $5,850 for each Indian full-time equivalent student in attendance at such college.

"(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

"(d) Sums appropriated pursuant to this section for construction shall remain available until expended.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to provide for grants to tribally controlled community colleges, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–582), explaining the purposes of the measure.

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

EXCERPT

PURPOSE

S. 1215, as amended, has two titles. The first authorizes appropriations for basic support grants to tribally controlled community colleges to be utilized for planning, development, operation and improvement of said colleges. The second provides a new authorization for construction and a more equitable funding formula for the Navajo Community College.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

BACKGROUND AND NEED

Section 203.4 of Public Law 93–638, the Indian Self-Determination and Education

Assistance Act, directed the Secretary of the Interior to submit to Congress a "specific program, together with detailed legislative recommendations, to assist the development and administration of Indian-controlled community colleges." In order to obtain the necessary information and data upon which to base its report, the Bureau of Indian Affairs contracted with the American Indian Higher Education Consortium to do a survey of "operational" and "projected" Indian-controlled community colleges. The survey, completed in August 1975, covered a total of 30 reservations and/or communities in 13 States. Out of that total, 13 "operational" colleges were identified. Today, there are at least 18 total "operational" colleges. In the survey, at least 13 "projected" colleges were also identified.

The concept of Federal support for these institutions is rooted in the trust responsibility of the U.S. Government for Indian tribes. Historically, the Snyder Act (25 U.S.C. 13) authorizes the Bureau of Indian Affairs to "direct, supervise, and expend such moneys as Congress may appropriate for the benefit, care and assistance of the Indians for the following purposes: general support and civilization, including education." Public Law 93–638 amplifies this authority to mean that Indian tribes may contract directly with the Bureau of Indian Affairs to administer programs and services themselves. Section 203.4 of that same legislation, mandates the Bureau to prepare and submit a program of support for Indian-controlled community colleges. This report was due to Congress by October 1, 1975. Based on the survey report submitted to Congress, absent "detailed legislative recommendations", S. 1215 was introduced to provide tribally controlled community colleges with the stable base of financial support that is necessary for their continued development and operations.

Clearly, the precedent has existed for Federal support for those institutions. The problems have been in getting the Bureau of Indian Affairs to adequately meet its responsibility in supporting these institutions. The Bureau presently provides operational support, through the "band analysis" budgeting process, to five tribally controlled community colleges under Public Law 93–638 authority and to Navajo Community College, under the authority of Public Law 92–189. All of these institutions are severely underfunded with the Bureau providing only a minor portion of the total operational budget. It can be stated fairly certainly that the funding provided by the Bureau to these colleges is inadequate and unstable due to the nature of the band analysis process itself.

Before a program, such as college operations, can get on the appropriations "band" of a tribe, either another program must expire, or other programs be defunded so as to accommodate the new item. Thus inherent in the process is an element of competition with other sorely needed programs at the tribal level causing instability in year-to-year funding and accounting for inadequacies in meeting needs. Even in the case of Navajo Community College, where specific legislative authority exists for specific appropriations for the college, the funds have been commingled with appropriations for scholarships, under the general band line item of higher education. It is imperative that specific authority for separate and distinct appropriations be enacted to stabilize the funding at adequate amounts.

S. 1215 would eliminate the competitive aspect of the band by setting up a separate appropriations category solely for tribal college operations so as to preclude commingling with other program funds. Further, it would provide for direct funding, from the Bureau of Indian Affairs Central Office, to each community college thereby exempting it from the band analysis process at the area office level. Furthermore, the per pupil entitlement in S. 1215 would act as a specific statutory formula for providing stabilized and equitable grant awards, effectively preventing those funds from being arbitrarily reallocated or renegotiated at the area level.

TITLE II—NAVAJO COMMUNITY COLLEGE

BACKGROUND AND NEED

The Navajo Tribal Council chartered and established Navajo Community College in 1968 and provided certain authorities and powers to a board of regents in the interest of initiating the college for purposes of providing academic, vocational and adult education programs, tailored to the unique socioeconomic needs of the Navajo people.

Assistance for funds to initiate the project were sought from the Bureau of Indian Affairs. The Bureau of Indian Affairs cited the lack of legal authority to help and thus the board of regents and the Navajo tribal executive officers successfully sought passage of the Navajo Community College Act (act of December 15, 1971; 85 Stat. 646).

Since the enactment of the original act, realistic funding for operations and maintenance has been a problem since the Bureau of Indian Affairs has never provided an adequate amount. For example, in 1976 the Bureau of Indian Affairs expended approximately $6,000 per student in support of comparable Bureau institutions of higher education, and allocated to Navajo Community College $2,600 per pupil. The enrollment at Navajo Community College has increased annually but the dormitory capacity is limited. Moreover, the Tsaile community where the college is based is isolated and inaccessible because of the great distance, as are most communities on the reservation.

To overcome this problem, the board of regents devised a plan to provide for two additional branch campuses at the extreme ends of the western and eastern boundaries where dormitories can be built to house 200 students and serve an additional 200 commuters. In addition, the board plans to have five centers where commuting students can enroll. These facilities will be constructed in communities which have utilities and population densities appropriate for such purposes. Preliminary architectural estimates indicate a total cost of about $60 million.

Since authorizations and appropriations for construction have been exhausted, the board felt that an amendment to the original act would be appropriate. Furthermore, because of the annual funding problem experienced with the Bureau of Indian Affairs, as explained above, it was determined that amendments to the Navajo Community College enabling legislation would be advisable in order to spell out a more specific per student grant formula and establish a separate budgetary allocation outside the general Federal requirement in terms of authorizing legislation.

By having the proposed amendment approved, the college hopes to more adequately and effectively fulfill its mandate of providing education and training aimed at equipping the Navajo with the tools to competently cope with life whether he lives in a predominantly non-Indian setting or whether he elects to live on his reservation homeland.

Unless the amendment is approved the Navajo Community College will continue to obtain annual funding at the mercy of the Bureau of Indian Affairs and will most certainly curtail services that are very necessary just to catch up with the rest of America.

LEGISLATIVE HISTORY

In the 94th Congress, Senator James Abourezk sponsored S. 2634, to provide basic operational funds to 10 Indian-controlled community colleges. The specific colleges were listed. Following hearings on March 15, 1976, the bill was redrafted as a general bill with criteria for grant eligibility as an "Indian-controlled postsecondary educational institution" for the purpose of allowing for new colleges other than the 10 originally listed. The redrafted bill was introduced on September 29, 1976, as S. 3850.

S. 1215 was introduced in this Congress by Senators Abourezk, Quentin Burdick, Mike Gravel, Dennis DeConcini, and Henry Jackson on April 1, 1977; and hearings were held by the select committee on July 28, 1977.

A House companion bill, H.R. 9158, has also been introduced and hearings were held on the measure on October 13, 1977, by the Subcommittee on Postsecondary Education of the Committee on Education and Labor. The House bill is also a combined version.

S. 468, now title II of S. 1215, was introduced by Senators Pete Domenici, Harrison Schmitt, Dennis DeConcini, and Barry Goldwater. A similar bill was introduced in the previous Congress but no action was taken.

ADMINISTRATIVE CONFERENCE ACT AMENDMENT

The Senate proceeded to consider the bill (S. 1792) to amend the Administrative Conference Act, which had been reported from the Committee on the Judiciary with an amendment on page 1, beginning with line 5, strike through and including line 9, and insert the following in lieu thereof:

"§ 576. Appropriations

"(a) There are authorized to be appropriated sums necessary not in exces of $1,600,000 for the fiscal year ending September 30, 1979, $1,950,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981, and for each fiscal year thereafter, to carry out the purposes of this subchapter.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 576 of title 5, United States Code, is amended to read as follows:

"(a) There are authorized to be appropriated sums necessary not in excess of $1,600,000 for the fiscal year ending September 30, 1979, $1,950,000 for the fiscal year ending September 30, 1980, and $2,300,000 for the fiscal year ending September 30, 1981, and for each fiscal year thereafter, to carry out the purposes of this subchapter.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–583), explaining the purposes of the measure.

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

EXCERPT

PURPOSES

The purpose of S. 1792 is to raise the appropriation ceiling "not in excess of $950,000 per annum" contained in the section authorizing appropriations for carrying out the purposes of subchapter 111 of title 5, United States Code, which establishes the Administrative Conference of the United States.

STATEMENT

At the request of the Administrative Conference of the United States legislation (S. 1792) having the foregoing purposes was in-

troduced in the Senate by Senator James Abourezk on June 30, 1977. A subcommittee hearing was held on August 2, 1977, at which Robert A. Anthony, Chairman of the Conference, Judge Harold Leventhal, Sheldon Cohen, and Cornelius Kennedy testified in support of the proposal. Letters submitted for the record in support of raising the appropriations ceiling were received from the following: Carl McGowan, Judge of the U.S. Court of Appeals, D.C. Circuit; Richard A. Wegman, chief counsel and staff director, Senate Committee on Governmental Affairs; Paul G. Dembling, general counsel, General Accounting Office; Jerome Kurtz, Commissioner of Internal Revenue; John Robson, Chairman, Civil Aeronautics Board; Calvin J. Collier, Commissioner, Federal Trade Commission; Betty Southard Murphy, member, National Labor Relations Board; Marcus A. Rowden, Chairman, Nuclear Regulatory Commission; S. Neil Hosenball, general counsel, National Aeronautics and Space Administration; Richard Baca, general counsel, U.S. Commission on Civil Rights; Fred J. Emery, Director, the Federal Register; Prof. Kenneth Culp Davis; Prof. Walter Gellhorn; William Warfield Ross, Chairman, ABA Committee on Revision of the Administration Procedure Act; Paul N. Rodriguez, executive director, Colorado Department of Regulatory Agencies; and William T. Coleman, former Secretary of Transportation; and a resolution of the American Bar Association of May 15, 1977.

HISTORICAL BACKGROUND

The Administrative Conference of the United States was established by Public Law 88-499, August 30, 1964, as a permanent agency of the Federal Government. As originally introduced and approved by the Senate, the legislation (S. 1664, 88th Cong., 1st sess.) contained no ceiling on appropriations. At the hearings before Subcommittee No. 3 of the House Judiciary Committee, however, concern was expressed because there was no indication as to the numerical size and annual cost of the Conference. Based on the operations and costs of the 1962 temporary Conference, the subcommittee was advised that the size of the agency should range from 75 to 91 members and that costs would be approximately $250,000 per year on the basis of 1962 prices. These limitations were included in the House version of the legislation and were incorporated in the bill as enacted. (See S. Rept. 88-621; H. Rept. 88-1565; 110 Cong. Rec. 19840-41 (August 17, 1964); and 110 Cong. Rec. 19212-19223 (August 2, 1964)).

The Administrative Conference was activated in 1968. By that time the $250,000 ceiling was already so restrictive as to prevent the Conference from carrying out in a meaningful way the important studies and programs that Congress had envisioned in creating the agency. Accordingly, legislation was introduced in 1969 (H.R. 4244) for the purpose of removing the ceiling. During the hearings the question was raised as to the actual needs of the Conference. Since the agency had just barely commenced operating there was no experience to turn to other than the costs of the 1962 Conference. It was determined that it would require at least $400,000 to provide the same level of support as that provided the temporary Conference of 1962.

Although the Administrative Conference sought removal of the appropriation ceiling, the House amended the bill to provide a ceiling of $450,000. When the bill came on for hearings before this subcommittee, we concluded:

A persuasive case was presented in support of S. 1144, as introduced, to eliminate the ceiling entirely and to leave to the Committees on Appropriations the question of justification of funds to carry on the work of this agency. However, this is a new agency. We do not write against a clean slate but have a statutory ceiling already contained in the basic statute. The Chairman of the Conference has advised that a ceiling of $450,000 as authorized by H.R. 4244 will provide adequate latitude for budget requirements for the "next 2 or 3 years." He has urged this committee, in the interest of obtaining legislation now to meet the immediate financial needs of the Conference, to recommend similar legislation.[1]

In adopting the House version of the bill which raised the ceiling to $450,000, it was recognized that, if the activities of the Conference grew as anticipated, relief would be required from the new appropriation ceiling within a few years. (See H. Rept. 91-214; S. Rept. 91-596; 115 Cong. Rec. 32569-32579 (October 31, 1969); and 115 Cong. Rec. 38623-38624 (December 12, 1969)).

In 1972 this committee again considered legislation to remove the appropriations ceiling for the Conference. For a third time the Senate Judiciary Committee reported a bill (S. 3671) to remove the appropriations ceiling for the Conference. The House once again insisted that the ceiling not be removed but set a graduated increase in the ceiling through Fiscal Year 1978, when the ceiling reaches $950,000. (See S. Rept. 92-1076; H. Rept. 92-1418; 118 Cong. Rec. 29077 (August 18, 1972); 118 Cong. Rec. 36425-36427 (October 14, 1972); and 118 Cong. Rec. 36636 (October 16, 1972)).

ORGANIZATION AND OPERATION OF THE CONFERENCE

The purpose of the Administrative Conference of the United States is to identify the causes of inefficiency, delay, and unfairness in administrative proceedings affecting private rights, and to recommend improvements to the President, the agencies, the Congress, and the courts. The Conference consists of three entities—the Office of the Chairman, the Council, and the Assembly.

The Chairman of the Administrative Conference is appointed by the President, with the advice and consent of the Senate for a term of 5 years. He is the chief executive of the Conference and its only full-time compensated member.

The Chairman, with the approval of the Council, appoints the public members of the Conference. He presides at plenary sessions of the Assembly and at Council meetings. He is the official spokesman for the Conference in relations with the President, the Congress, the Judiciary, the agencies, and the public. He has authority to investigate matters brought to his attention by individuals inside and outside Government, to designate subjects for Conference study and to seek implementation of Conference recommendations. The Chairman is served by a small permanent staff whose principal duties are to furnish administrative and research support to the Assembly and Committees of the Conference, to follow and assist in the work of consultants, and to help the Chairman in securing implementation of recommendations and in providing advice and assistance to the agencies and to committees of the Congress.

The Council consists of the Chairman and 10 other Members who are appointed by the President for 3-year terms, of whom not more than one-half may be drawn from Federal agencies. Its functions are similar to those of a corporate board of directors. It has authority to call plenary sessions of the Conference and fix their agendas, to recommend subjects for study, to receive and consider reports and recommendations before they are considered by the Assembly, and to exercise general budgetary and policy supervision.

The Assembly of the Conference is composed of the entire membership, which by statute may not be less than 75 members nor more than 91. The Conference at present has 89 members. The Chairman and the other members of the Council account for 11 of this number. The remaining 77 fall into the following groups:

First, the act confers membership upon the Chairman of each independent regulatory board or commission, or an individual designated by the board or commission. Under this provision 14 boards and commissions have statutory members. In addition, two of these agencies have been allotted a second member by the Council for the purpose of permitting the designation of two administrative law judges.

Second, the act grants membership to the head (or his designee) of each executive department or other administrative agency designated for this purpose by the President. Acting under this authority, the President has designated all 11 Cabinet departments for membership, and the Council has acted to provide some of them additional members.

The final group consists of the public members appointed by the Chairman with the approval of the Council for 2-year terms. These members, who must comprise not less than one-third nor more than two-fifths of the total membership, are selected in such a manner as to provide broad representation of the views of private citizens of diverse experience. They are chosen from among members of the practicing bar, scholars in the field of administrative law or government, and others specially informed with respect to Federal administrative procedure. They are reimbursed for travel expenses but otherwise serve without compensation.

In addition, pursuant to section 4 of the bylaws, the Chairman, with the approval of the Council, may have liaison arrangements with representatives of the Congress, the Judiciary, Federal agencies, and professional associations not represented on the Conference. Individuals who serve in such a capacity participate in the deliberations of the Conference with privileges of the floor but do not vote. Currently, eight liaison arrangements are in effect.

The Assembly, which has ultimate authority over all activities of the Conference, operates much like a legislative body. It has adopted bylaws establishing nine standing committees.

These committees meet periodically to plan and guide research by academic consultants and by the Conference's professional staff, and on the basis of such research to frame proposed recommendations for consideration by the Assembly. When a study and tentative recommendation have been prepared, they are circulated to the affected agencies for comment and reexamined by the committee in light of the replies. After final committee approval, a proposed recommendation is transmitted to the Council and then to the Assembly for final action in plenary session. The Assembly may adopt the recommendation in the form proposed, amend it, refer it back to committee or reject it entirely.

Witnesses at the subcommittee's August 2, 1977, hearing emphasized that the unique structure of the Conference—meshing private and governmental representatives—provides a continuous feedback and dialog which is valuable and effective. Judge Leventhal observed that "the Government members who are more than a majority of the committee (on which Judge Leventhal served), do not take a monolithic point of view on the subjects of procedure which come up. They each look at the matter from a point of view of their own experience, they have contributions to make, and they do not vote as a block. It is very heartening to me they should be so objective about the questions brought before them." Hearings at 2. Mr. Kennedy testified that, on the basis of his experience as Chairman of one of the Conference's committees, he was "deeply persuaded that the

[1] S. Rept. 91-596, 91st Cong., 1st sess. (1969).

blend of government and nongovernment members, together with the small committee structure of the Administrative Conference has made it possible for the Conference to achieve results which would otherwise have been impossible. But this is only possible where all members of the committee share a common fact basis, in the form of a consultant's report, in addition to their varied personal background." Hearings at 6. All witnesses at the hearing emphasized the continued need for quality, in-depth field and legal research as the foundation for Conference reports and recommendations.

CHONG CHA WILLIAMS

The bill (S. 405) for the relief of Chong Cha Williams, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a) (23) of the Immigration and Nationality Act, Chong Cha Williams may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

ROSALINDA FLORES VAOW

The bill (S. 432) for the relief of Rosalinda Flores Vaow, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rosalinda Flores Vaow may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Frederick Dale and Flora Mallari Vaow, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such a relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

ELVI ENGELSMANN JENSEN

The bill (S. 1401) for the relief of Elvi Engelsmann Jensen, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Elvi Engelsmann Jensen may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Donald Jensen, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Elvi Engelsmann Jensen shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

PATRICIA R. TULLY

The bill (H.R. 2661) for the relief of Patricia R. Tully, was considered, ordered to a third reading, read the third time, and passed.

DO SOOK PARK

The Senate proceeded to consider the bill (S. 1563) for the relief of Do Sook Park, which had been reported from the Committee on the Judiciary with amendments:

On page 1, line 8, after the period, strike "The mother, father, brothers, and sisters of the said Do Sook Park shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.", insert in lieu thereof a colon and "*Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Do Sook Park may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Frank Donnelly, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MARK CHARLES AND LIANE MARIA MIEIR

The Senate proceeded to consider the bill (H.R. 3313) for the relief of Mark Charles Mieir and Liane Maria Mieir, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Mark Charles Mieir and Liane Maria Mieir shall be held and considered to be the natural-born alien son and alien daughter, respectively, of Mr. and Mrs. Charles Mieir, citizens of the United States.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

BRIAN PATRICK WEBB AND LAURENE ANNE WEBB

The Senate proceeded to consider the bill (S. 1052) for the relief of Brian Patrick Webb and his wife, Laurene Anne Webb, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Brian Patrick Webb and his wife, Laurene Anne Webb, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Brian Patrick Webb and his wife, Laurene Anne Webb."

ADELAIDA REA BERRY

The Senate proceeded to consider the bill (H.R. 5555) for the relief of Adelida Rea Berry, which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, strike "Adelida" and insert "Adelaida", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Adelaida Rea Berry may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Raymond Berry, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

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

The bill was read the third time, and passed.

The title was amended so as to read: "An act for the relief of Adelaida Rea Berry."

YOUNG-SHIK KIM

The Senate proceeded to consider the bill (S. 973) for the relief of Young-Shik Kim, which had been reported

from the Committee on the Judiciary with amendments as follows:

On page 1, line 5, strike "such" and insert "the";

On page 1, line 6, after the comma, strike through and including page 2, line 1, and insert in lieu thereof: "upon approval of a petition filed in his behalf by Tae Hyung Kim and his wife, Kyung Sook Kim, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young-Shik Kim shall be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in his behalf by Tae Hyung Kim and his wife, Kyung Sook Kim, citizens of the United States, pursuant to section 204 of the Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AH YOUNG CHO

The Senate proceeded to consider the bill (S. 833) for the relief of Ah Young Cho, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "Ah Young Cho" and insert "Ah Young Kwak";

On page 1, line 8, strike "mother, father," and insert "natural parents,";

On page 1, line 9, strike "said Ah Young Cho" and insert "beneficiary";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ah Young Cho Kwak may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. John Kwak, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The amendments were agreed to en bloc.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Ah Young Cho Kwak.

INDIAN CHILD WELFARE ACT OF 1977

The Senate proceeded to consider the bill (S. 1214) to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes, which had been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "Indian Child Welfare Act of 1977".

FINDINGS

SEC. 2. Recognizing the special relations of the United States with the Indian and Indian tribes and the Federal responsibility for the care of the Indian people, the Congress finds that:

(a) An alarmingly high percentage of Indian children living within both urban communities and Indian reservations, are separated from their natural parents through the actions of nontribal government agencies or private individuals or private agencies and are placed in institutions (including boarding schools), or in foster or adoptive homes, usually with non-Indian families.

(b) The separation of Indian children from their families frequently occurs in situations where one or more of the following circumstances exist: (1) the natural parent does not understand the nature of the documents or proceedings involved; (2) neither the child nor the natural parents are represented by counsel or otherwise advised of their rights; (3) the agency officials involved are unfamiliar with, and often disdainful of Indian culture and society; (4) the conditions which led to the separation are not demonstrably harmful or are remediable or transitory in character; and (5) responsible tribal authorities are not consulted about or even informed of the nontribal government actions.

(c) The separation of Indian children from their natural parents, especially their placement in institutions or homes which do not meet their special needs, is socially and culturally undesirable. For the child, such separation can cause a loss of identity and self-esteem, and contributes directly to the unreasonably high rates among Indian children for dropouts, alcoholism and drug abuse, suicides, and crime. For the parents, such separation can cause a similar loss of self-esteem, aggravates the conditions which initially gave rise to the family breakup, and leads to a continuing cycle of poverty and despair. For Indians generally, the child placement activities of nontribal public and private agencies undercut the continued existence of tribes as self-governing communities and, in particular, subvert tribal jurisdiction in the sensitive field of domestic and family relations.

DECLARATION OF POLICY

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligations to the American Indian people, to establish standards for the placement of Indian children in foster or adoptive homes which will reflect the unique values of Indian culture, discourage unnecessary placement of Indian children in boarding schools for social rather than educational reasons, assist Indian tribes in the operation of tribal family development programs, and generally promote the stability and security of Indian families.

DEFINITIONS

SEC. 4. For purposes of this Act:

(a) "Secretary", unless otherwise designated, means the Secretary of the Interior.

(b) "Indian" means any person who is a member of or who is eligible for membership in a federally recognized Indian tribe.

(c) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided by the Bureau of Indian Affairs to Indians because of their status as Indians, including any Alaska Native villages, as listed in section 11(b)(1) of the Alaska Native Claims Settlement Act (85 Stat. 688, 697).

(d)) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians.

(e) "Tribal court" means any Court of Indian Offenses, any court established, operated, and maintained by an Indian tribe, and any other administrative tribunal of a tribe which exercise juirsdiction over child welfare matters in the name of a tribe.

(f) "Nontribal public or private agency" means any Federal, State, or local government department, bureau, agency, or other office, including any court other than a tribal court, and any private agency licensed by a State or local government, which has jurisdiction or which performs functions and exercises responsibilities in the fields of social services, welfare, and domestic relations, including child placement.

(g) "Reservation" means Indian country as defined in section 1151 of title 18, United States Code and as used in this Act, shall include lands within former reservations where the tribes still maintain a tribal government, and lands held by Alaska Native villages under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688). In a case where it has been judicially determined that a reservation has been diminished, the term "reservation" shall include lands within the last recognized boundaries of such diminished reservation prior to enactment of the allotment or pending statute which caused such diminishment.

(h) "Child placement" means any proceedings, judicial, quasi-judicial, or administrative, voluntary or involuntary, and public or private action(s) under which an Indian child is removed by a nontribal public or private agency from (1) the legal custody of his parent or parents, (2) the custody of any extended family member in whose care he has been left by his parent or parents, or (3) the custody of any extended family member who otherwise has custody in accordance with Indian law or custom, or (4) under which the parental or custodial rights of any of the above mentioned persons are impaired.

(i) "Parent" means the natural parent of an Indian child or any person who has adopted an Indian child in accordance with State, Federal, or tribal law or custom.

(j) "Extended family member" means any grandparent, aunt, or uncle (whether by blood or marriage), brother or sister, brother or sister-in-law, niece or nephew, first or second cousin, or stepparent whether by blood, or adoption, over the age of eighteen or otherwise emancipated, or as defined by tribal law or custom.

TITLE I—CHILD PLACEMENT JURISDICTION AND STANDARDS

SEC. 101. (a) No placement of an Indian child, except as provided in this Act shall be valid or given any legal force and effect, except temporary placement under circumstances where the physical or emotional wellbeing of the child is immediately and seriously threatened, unless (1) his parent or parents and the extended family member in

whose care the child may have been left by his parent or parents or who otherwise has custody according to tribal law or custom, has been accorded not less than thirty days prior written notice of the placement proceeding, which shall include an explanation of the child placement proceedings, a statement of the facts upon which placement is sought, and a right: (A) to intervene in the proceedings as an interested party; (B) to submit evidence and present witnesses on his or her own behalf; and (C) to examine all reports or other documents and files upon which any decision with respect to child placement may be based; and (2) the party seeking to effect the child placement affirmatively shows that available remedial services and rehabilitative programs designed to prevent the breakup of the Indian family have been made available and proved unsuccessful.

(b) Where the natural parent or parents of an Indian child who falls within the provisions of this Act, or the extended family member in whose care the child may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, opposes the loss of custody, no child placement shall be valid or given any legal force and effect in the absence of a determination, supported by clear and convincing evidence, including testimony by qualified expert witnesses, that the continued custody of the child by his parent or parents, or the extended family member in whose care the child has been left, or otherwise has custody in accordance with tribal law or custom, will result in serious emotional or physical damage. In making such determination, poverty, crowded or inadequate housing, alcohol abuse or other nonconforming social behaviors on the part of either parent or extended family member in whose care the child may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, shall not be deemed prima facie evidence that serious physical or emotional damage to the child has occurred or will occur. The standards to be applied in any proceeding covered by this Act shall be the prevailing social and cultural standards of the Indian community in which the parent or parents or extended family member resides or with which the parent or parents or extended family member maintains social and cultural ties.

(c) In the event that the parent or parents of an Indian child consent to a child placement, whether temporary or permanent, such placement shall not be valid or given any legal force and effect, unless such consent is voluntary, in writing, executed before a judge of a court having jurisdiction over child placements, and accompanied by the witnessing judge's certificate that the consent was explained in detail, was translated into the parent's native language, and was fully understood by him or her. If the consent is to a nonadoptive child placement, the parent or parents may withdraw the consent at any time for any reason, and the consent shall be deemed for all purposes as having never been given. If the consent is to an adoptive child placement, the parent or parents may withdraw the consent for any reason at any time before the final decree of adoption: *Provided*, That no final decree of adoption may be entered within ninety days after the birth of such child or within ninety days after the parent or parents have given written consent to the adoption, whichever is later. Consent by the parent or parents of an Indian child given during pregnancy or within ten days after the birth of the child shall be conclusively presumed to be involuntary. A final decree of adoption may be set aside upon a showing that the child is again being placed for adoption, that the adoption did not comply with the requirements of this Act or was otherwise unlawful, or that the consent to the adoption was not voluntary. In the case of such a failed adoption, the parent or parents or the extended family member from whom custody was taken shall be afforded an opportunity to reopen the proceedings and petition for return of custody. Such prior parent or custodian shall be given thirty days notice of any proceedings to set aside or vacate a previous decree unless the prior parent or custodian waives in writing any right to such notice.

(d) No placement of an Indian child, except as otherwise provided by this Act, shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately threatened, unless his parent or parents, or the extended family member in whose care the child may have been left or who otherwise has custody in accordance with tribal law or custom, has been afforded the opportunity to be represented by counsel or lay advocate as required by the court having jurisdiction.

(e) Whenever an Indian child previously placed in foster care or temporary placement by any nontribal public or private agency is committed or placed, either voluntarily or involuntarily in any public or private institution, including but not limited to a correctional facility, institution for juvenile delinquents, mental hospital or halfway house, or is transferred from one foster home to another, notification shall forthwith be made to the tribe with which the child has significant contacts and his parent or parents or extended family member from whom the child was taken. Such notice shall include the exact location of the child's present placement and the reasons for changing his placement. Notice shall be made thirty days before the legal transfer of the child effected, if possible, and in any event within ten days thereafter.

SEC. 102. (a) In the case of any Indian child who resides within an Indian reservation which maintains a tribal court which exercises jurisdiction over child welfare matters, no child placement shall be valid or given any legal force and effect, unless made pursuant to an order of the tribal court. In the event that a duly constituted Federal or State agency or any representation thereof has good cause to believe that there exists an immediate threat to the emotional or physical well-being of an Indian child, such child may be temporarily removed from the circumstances giving rise to the danger provided that immediate notice shall be given to the tribal authorities, the parents, and the extended family member in whose care the child may have been left or who otherwise has custody according to tribal law or custom. Such notice shall include the child's exact whereabouts and the precise reasons for removal. Temporary removals beyond the boundaries of a reservation shall not affect the exclusive jurisdiction of the tribal court over the placement of an Indian child.

(b) In the case of an Indian child who resides within an Indian reservation which possesses but does not exercise jurisdiction over child welfare matters, no child placement, by any nontribal public or private agency shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately and seriously threatened, unless such jurisdiction is transferred to the State pursuant to a mutual agreement entered into between the State and the Indian tribe pursuant to subsection (j) of this section. In the event that no such agreement is in effect, the Federal agency or agencies servicing said reservation shall continue to exercise responsibility over the welfare of such child.

(c) In the case of any Indian child who is not a resident of an Indian reservation or who is otherwise under the jurisdiction of a State, if said Indian child has significant contacts with an Indian tribe, no child placement shall be valid or given any legal force and effect, except temporary placements under circumstances where the physical or emotional well-being of the child is immediately and seriously threatened, unless the Indian tribe with which such child has significant contacts has been accorded thirty days prior written notice of a right to intervene as an interested party in the child placement proceedings. In the event that the intervening tribe maintains a tribal court which has jurisdiction over child welfare matters, jurisdiction shall be transferred to such tribe upon its request unless good cause for refusal is affirmatively shown.

(d) In the event of a temporary placement or removal as provided in subsections (a), (b), and (c) above, immediate notice shall be given to the parent or parents, the custodian from whom the child was taken if other than the parent or parents, and the chief executive officer or such other person as such tribe or tribes may designate for receipt of notice. Such notice shall include the child's exact whereabouts, the precise reasons for his or her removal, the proposed placement plan, if any, and the time and place where hearings will be held if a temporary custody order is to be sought. In addition, where a tribally operated or licensed temporary child placement facility or program is available, such facilities shall be utilized. A temporary placement order must be sought at the next regular session of the court having jurisdiction and in no event shall any temporary or emergency placement exceed seventy-two hours without an order from the court of competent jurisdiction.

(e) For the purposes of this Act, an Indian child shall be deemed to be a resident of the reservation where his parent or parents, or the extended family member in whose care he may have been left by his parent or parents or who otherwise has custody in accordance with tribal law or custom, is resident.

(f) the purpose of this Act, whether or not a nonreservation resident Indian child has significant contacts with an Indian tribe shall be an issue of fact to be determined by the court on the basis of such considerations as: Membership in a tribe, family ties within the tribe, prior residency on the reservation for appreciable periods of time, reservation domicile, the statements of the child demonstrating a strong sense of self-identity as an Indian, or any other elements which reflect a continuing tribal relationship. A finding that such Indian child does not have significant contacts with an Indian tribe sufficient to warrant a transfer of jurisdiction to a tribal court under subsection (c) of this section does not waive the preference standards for placement set forth in section 103 of this Act.

(g) It shall be the duty of the party seeking a change of the legal custody of an Indian child to notify the parent or parents, the extended family members from whom custody is to be taken, and the chief executive of any tribe or tribes with which such child has significant contacts by mailing prior written notice by registered mail to the parent or parents, or extended family member, and the chief executive officer of the tribe, or such other persons as such tribe or tribes may designate: *Provided*, That the judge or hearing officer at any child placement proceeding shall make a good faith determination of whether the child involved is Indian and, if so, whether the tribe or tribes with which the child has significant contacts were timely notified.

(h) Any program operated by a public or private agency which removes Indian children from a reservation area and places them in family homes as an incident to their attendance in schools located in communities in off-reservation areas and which are not educational exemptions as defined in the Interstate Compact on the Placement of

Children shall not be deemed child placements for the purposes of this Act. Such programs shall provide the chief executive officer of said tribe with the same information now provided to sending and receiving states which are members of the Interstate Compact on the Placement of Children. This notification shall be facilitated by mailing written notice by registered mail to the chief executive officer or other such person as the tribe may designate.

(i) Notwithstanding the Act of August 15, 1953 (67 Stat. 588), as amended, or any other Act under which a State has assumed jurisdiction over child welfare of any Indian tribe, upon sixty days written notice to the State in which it is located, any such Indian tribe may reassume the same jurisdiction over such child welfare matters as any other Indian tribe not affected by such Acts: *Provided*, That such Indian tribe shall first establish and provide mechanisms for implementation of such matters which shall be subject to the review and approval of the Secretary of the Interior. In the event the Secretary does not approve the mechanisms which the tribe proposed within sixty days, the Secretary shall provide such technical assistance and support as may be necessary to enable the tribe to correct any deficiencies which he has identified as a cause for disapproval. Following approval by the Secretary, such reassumption shall not take effect until sixty days after the Secretary provides notice to the State which is asserting such jurisdiction. Except as provided in section 102(c), such reassumption shall not affect any action or proceeding over which a court has already assumed jurisdiction and no such actions or proceeding shall abate by reason of such reassumption.

(j) The States and tribes are specifically authorized to enter into mutual agreements or compacts with each other, respecting the care, custody, and jurisdictional authority of each party over any matter within the scope of this Act, including agreements which provide for transfer of jurisdiction on a case-by-case basis, and agreements which provide for concurrent jurisdiction between the States and the tribes. The provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 78) shall not limit the powers of States and tribes to enter into such agreements or compacts. Any such agreements shall be subject to revocation by either party upon sixty days written notice to the other. Except as provided in section 102(c), such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction and no such action or proceeding shall abate by reason of such revocation: *And provided further*, That such agreements shall not waive the rights of any tribe to notice and intervention as provided in this Act nor shall they alter the order of preference in child placement provided in this title. The Secretary of the Interior shall have sixty days after notification to review any such mutual agreements or compacts or any revocation thereof and in the absence of a disapproval for good cause shown, such agreement, compact, or revocation thereof shall become effective.

(k) Nothing in this Act shall be construed to either enlarge or diminish the jurisdiction over child welfare matters which may be exercised by either State or tribal courts or agencies except as expressly provided in this Act.

SEC. 103. (a) In offering for adoption an Indian child, in the absence of good cause shown to the contrary, a preference shall be given in the following order: (1) to the child's extended family; (2) to an Indian home on the reservation where the child resides or has significant contacts; (3) to an Indian home where the family head or heads are members of the tribe with which the child has significant contracts; and (4) to an Indian home approved by the tribe: *Provided, however*, That each Indian tribe may modify or amend the foregoing order of preference and may add or delete preference categories by resolution of its government.

(b) In any nonadoptive placement of an Indian child, every nontribal public or private agency, in the absence of good cause shown to the contrary, shall grant preferences in the following order: (1) to the child's extended family; (2) to a foster home, if any, licensed or otherwise designated by the Indian tribe occupying the reservation of which the child is a resident or with which the child has significant contacts; (3) to a foster home, if any, licensed by the Indian tribe of which the child is a member or is eligible for membership; (4) to any other foster home within an Indian reservation which is approved by the Indian tribe of which the child is a member or is eligible for membership in or with which the child has significant contacts; (5) to any foster home run by an Indian family; and (6) to a custodial institution for children operated by an Indian tribe, a tribal organization, or nonprofit Indian organization: *Provided, however*, That each Indian tribe may modify or amend the foregoing order of preferences, and may add or delete preference categories, by resolution of its government body.

(c) Every nontribal public or private agency shall maintain a record evidencing its efforts to comply with the order of preference provided under subsections (a) and (b) in each case of an Indian child placement. Such records shall be made available, at any time upon request of the appropriate tribal government authorities.

(d) Where an Indian child is placed in a foster or adoptive home, or in an institution, outside the reservation of which the child is a resident or with which he maintains significant contacts, pursuant to an order of a tribal court, the tribal court shall retain continuing jurisdiction over such child until the child attains the age of eighteen.

SEC. 104. In order to protect the unique rights associated with an individual's membership in an Indian tribe, after an Indian child who has been previously placed attains the age of eighteen, upon his or her application to the court which entered the final placement decree, and in the absence of good cause shown to the contrary, the child shall have the right to learn the tribal affiliation of his parent or parents and such other information as may be necessary to protect the child's rights flowing from the tribal relationship.

SEC. 105. In any child placement proceeding within the scope of this Act, the United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the laws of any Indian tribe applicable to a proceeding under the Act and to any tribal court orders relating to the custody of a child who is the subject of such a proceeding.

TITLE II—INDIAN FAMILY DEVELOPMENT

SEC. 201. (a) The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to carry out or make grants to Indian tribes and Indian organizations for the purpose of assisting such tribes or organizations in the establishment and operation of Indian family development programs on or near reservations, as described in this section, and in the preparation and implementation of child welfare codes. The objective of every Indian family development program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or parents, or the custody of any extended family member in whose care he has been left by his parent or parents, or one who otherwise has custody according to tribal law or custom, shall be effected only as a last resort. Such family development programs may include, but are not limited to, some or all of the following features:

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the construction, operation, and maintenance of family development centers, as defined in subsection (b) hereof;

(3) family assistance, including homemakers and home counselors, day care, after school care, and employment, recreational activities, and respite services;

(4) provision for counseling and treatment of Indian families and Indian children;

(5) home improvement programs;

(6) the employment of professional and other trained personel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(7) education and training of Indians, including tribal court judges and staff, in skills relating to child welfare and family assistance programs;

(a) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children; and

(9) guidance, legal representation, and advice to Indian families involved in tribal or nontribal child placement proceedings.

(b) Any Indian foster or adoptive home licensed or designated by a tribe (1) may accept Indian child placements by a nontribal public or private agency and State funds in support of Indian children; and (2) shall be granted preference in the placement of an Indian child in accordance with title I of this Act. For purposes of qualifying for assistance under any federally assisted program, licensing by a tribe shall be deemed equivalent to licensing by a State.

(c) Every Indian tribe is authorized to construct, operate, and maintain a family development center which may contain, but shall not be limited to—

(1) facilities for counseling Indian families which face disintegration and, where appropriate, for the treatment of individual family members;

(2) facilities for the temporary custody of Indian children whose natural parent or parents, or extended family member in whose care he has been left by his parent or parents or one who otherwise has custody according to tribal law or custom, are temporarily unable or unwilling to care for them or who otherwise are left temporarily without adequate adult supervision by an extended family member.

SEC. 202. (a) The Secretary is also authorized under such rules and regulations as he may prescribe to carry out, or to make grants to Indian organizations to carry out, off-reservation Indian family development programs, as described in this section.

(b) Off-reservation Indian family development programs operated through grants with local Indian organizations, may include, but shall not be limited to, the following features:

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children are provided the same support as Indian foster children;

(2) the construction, operation, and maintenance of family development centers providing the facilities and services set forth in section 201(d);

(3) family assistance, including homemakers and home counselors, day care, after school care, and employment, recreational activities, and respite services;

(4) provision for counseling and treatment both of Indian families which face disintegration and, where appropriate, of Indian foster and adoptive children; and

(5) guidance, representation, and advice to Indian families involved in child placement proceedings before nontribal public and private agencies.

SEC. 203. (a) In the establishment, operation, and funding of Indian family development programs, both on or off reservation, the Secretary may enter into agreements or other cooperative arrangements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare.

(b) There are authorized to be appropriated $26,000,000 during fiscal year 1979 and such sums thereafter as may be necessary during each subsequent fiscal year in order to carry out the purposes of this title.

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) The Secretary of the Interior is authorized and directed under such rules and regulations as he may prescribe, to collect and maintain records in a single, central location of all Indian child placements which are effected after the date of this Act which records shall show as to each such placement the name and tribal affiliation of the child, the names and addresses of his natural parents and the extended family member, if any, in whose care he may have been left, the names and addresses of his adoptive parents, the names and addresses of his natural siblings, and the names and locations of any tribal or nontribal public or private agency which possess files or information concerning his placement. Such records shall not be open for inspection or copying pursuant to the Freedom of Information Act (80 Stat. 381), as amended, but information concerning a particular child placement shall be made available in whole or in part, as necessary to an Indian child over the age of eighteen for the purpose of identifying the court which entered his final placement decree and furnishing such court with the information specified in section 104 or to the adoptive parent or foster parent of an Indian child or to an Indian tribe for the purpose of assisting in the enrollment of said Indian child in the tribe of which he is eligible for membership and for determining any rights or benefits associated with such membership. The records collected by the Secretary pursuant to this section shall be privileged and confidential and shall be used only for the specific purposes set forth in this Act.

(b) A copy of any order of any nontribal public or private agency which effects the placement of an Indian child within the coverage of this Act shall be filed with the Secretary of the Interior by mailing a certified copy of said order within ten days from the date such order is issued. In addition, such public or private agency shall file with the Secretary of the Interior any further information which the Secretary may require by regulations in order to fulfill his recordkeeping functions under this Act.

SEC. 302. (a) The Secretary is authorized to perform any and all acts and to make rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this Act.

(b) (1) Within six months from the date of this Act, the Secretary shall consult with Indian tribes, Indian organizations, and Indian interest agencies in the consideration and formation of rules and regulations to implement the provisions of this Act.

(2) Within seven months from the date of enactment of this Act, the Secretary shall present the proposed rules and regulations to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectfully.

(3) Within eight months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(c) The Secretary is authorized to revise and amend any rules and regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the Secretary shall present the proposed revision or amendment to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, respectively, and shall, to the extent practicable, consult with the tribes, organizations, and agencies specified in subsection (b) (1) of this section and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

TITLE IV—PLACEMENT PREVENTION STUDY

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools contributes to the breakup of Indian families and denies Indian children the equal protection of the law.

(b) The Secretary is authorized and directed to prepare and to submit to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs and Committee on Education and Labor of the United States House of Representatives, respectively, within one year from the date of enactment of this Act, a plan, including a cost analysis statement, for the provision to Indian children of schools located near the students home. In developing this plan, the Secretary shall give priority to the need for educational facilities for children in the elementary grades.

Mr. HATFIELD. Mr. President, a question has been raised regarding the geographical area over which a tribe is authorized to exercise original jurisdiction over child placement matters under this bill. The definition of Indian reservation found at page 5, section 4(g) is the relevant provision here. The definition speaks of three categories of Indian reservations, those presently recognized under Federal law and defined at 18 United States Code, section 1151 (the definition of Indian country), former reservations which have been disestablished, and reservations whose boundaries have been judicially determined to be diminished or disestablished. It is my understanding, and I would like to ask Senator ABOUREZK, the bill sponsor and chairman of the Indian Committee, to confirm this understanding, that where there has not been a judicial determination of diminishment or disestablishment, the boundaries of the reservation within which a tribe is authorized to exercise original jurisdiction are those boundaries presently recognized by the Federal Government pursuant to 18 United States Code, section 1151.

Mr. ABOUREZK. Yes; that is correct. The bill is quite specific on this point. The intent of this provision is not to expand the present federally recognized boundary of a tribe but simply to authorize those tribes whose reservations have already been diminished or disestablished by judicial determination, to exercise jurisdiction over the placement of Indian children within their former, or last recognized reservation boundary. That is, as recognized prior to such judicial determination.

Mr. HATFIELD. Therefore, in the case of the Umatilla Reservation in Oregon, for example, where there has not been such a judicial determination, the reservation boundaries shall continue to be those presently recognized by the Federal Government under 18 United States Code, section 1151.

Mr. ABOUREZK. Yes, that is correct. I would add, that the term former reservation would not apply to the Umatilla tribe either, since their reservation is not a former reservation as defined by this provision, but a presently existing one. Under the law, a reservation simply cannot fall into both categories at the same time and, therefore, there is no basis for concluding that any former boundaries associated with the Umatilla's former reservation would be recognized by this act. I might also add that this act authorizes tribal jurisdiction only over child placement matters involving Indian children.

Mr. HATFIELD. Thank you, Mr. President, I have one additional question. As you know, we very recently enacted legislation to restore the Siletz Indian tribe to recognized status for purposes of Federal service eligibility. It is my understanding that this bill would not affect the former reservation boundaries of formerly terminated tribes as distinguished from tribes who have not been terminated, but whose reservations have been disestablished. With respect to formerly terminated tribes such as the Siletz where the restoration statute did not reestablish a reservation, this bill does not authorize original tribal jurisdiction over their former reservation.

Mr. ABOUREZK. Yes, that is correct, the term "former reservation" clearly does not apply to terminated tribes whether or not they have been restored and, consequently, there can be no argument that the bill authorizes original tribal jurisdiction over their former reservation boundaries.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ELY INDIAN COLONY

The bill (H.R. 6348) to convey to the Ely Indian Colony the beneficial interest in certain Federal land, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the various measures were passed.

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

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

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

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished majority whip.

The PRESIDING OFFICER. The Senator from California.

CALIFORNIA CANNERS AND GROWERS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order No. 530, Senate Resolution 225.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 225) to refer the bill (S. 1894) entitled "A bill for the relief of California Canners and Growers, a nonprofit cooperative association organized under the Agricultural Code of the State of California."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished Senator add to his request that no amendments to this resolution be in order?

Mr. CRANSTON. I so request.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The resolution was considered and agreed to, as follows:

Resolved, That bill (S. 1894) entitled "A bill for the relief of California Canners and Growers, a nonprofit cooperative association organized under the Agricultural Code of the State of California", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims, and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitation, laches, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimant.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

STRUCTURAL REQUIREMENTS FOR INTERMODAL CARGO CONTAINERS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 8159, 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:

An act (H.R. 8159) to establish uniform structural requirements for intermodal cargo containers, subject to the jurisdiction of the United States, designed to be transported interchangeably by sea and land carriers, and moving in, or designed to move in, international trade, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

UP AMENDMENT NO. 1076

(Purpose: To formalize common international safety requirements for the approval, examination, and inspection of containers within the jurisdiction of the United States, and for other purposes.)

Mr. ROBERT C. BYRD. Mr. President, there is an amendment at the desk consisting of the text of the Senate bill, S. 1597. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for the Senator from Washington (Mr. MAGNUSON), proposes an unprinted amendment numbered 1076.

The amendment is as follows:

Beginning on page 1, strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "International Safe Container Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(a) The term "Secretary" means the Secretary of Transportation.

(b) The term "Convention" means the International Convention for Safe Containers, and the annexes thereteo, done at Geneva, Switzerland, December 2, 1972.

(c) The term "container" shall have the same meaning as that term is defined in the Convention.

(d) The term "international transport" means the transportation of a container—

(1) to any place within the jurisdiction of the United States from a place within a foreign country;

(2) by United States carriers between two points both of which are outside of the United States; or

(3) from any place within the jurisdiction of the United States to any place within a foreign country.

(e) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(f) The term "new container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport, the construction of which began on or after September 6, 1977.

(g) The term "existing container" means a container (other than a container specially designed for air transport) which is used or is designed for use in international transport and which is not a new container.

(h) The term "owner" means a person who owns a container, or, if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container, the lessee or bailee of a container, to the extent such agreement so provides.

(i) The term "safety approval plate" shall have the same meaning as that term is defined in annex I of the Convention.

SEC. 3. DUTIES OF AN OWNER.

(a) Beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, for new containers, and beginning on September 6, 1982, for existing containers, the owner of each such container—

(1) who is domiciled and has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the Secretary; and

(2) who is either domiciled or has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the administration of either the country where he is domiciled or has his principal office (so long as such country is a party to the Convention).

Any owner of either a new or existing container who is neither domiciled nor maintains a principal office in the United States, or in any other country which is a party to the Convention, may submit their containers for approval and periodic examination according to the procedure established by the Secretary.

(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before September 6, 1982, an owner of an existing container may have such container approved according to the procedure established by the Secretary, and have a safety approval plate affixed to it, if such container is found to meet the standards of the Convention.

SEC. 4. DUTIES OF THE SECRETARY.

(a) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, the Secretary shall enforce and carry out the provisions of the Convention, and, unless an earlier date is specifically provided, the provisions of this Act, in the United States.

(b) The Secretary shall, as soon as practicable after the date of enactment of this Act, promulgate, and from time to time, amend, those regulations he deems necessary for such enforcement. Such regulations, among other things, shall—

(1) establish procedures for the testing, inspection, and initial approval of existing and new containers and of designs for new containers, including procedures relating to the affixing, invalidating, and removal of safety approval plates for containers;

(2) establish procedures to be followed by owners of containers relating to the periodic examination of containers, as provided in the Convention; and

(3) provide a method of developing, collecting, and disseminating data concerning container safety and the international transport of containers.

(c) At any time after the date of enactment of this Act, the Secretary may—

(1) authorize the affixation of a safety approval plate to any container which, after examination, is found not to have a safety approval plate attached to it and which the owner has established meets the standards of the Convention;

(2) delegate and withdraw the delegation of authority to initially approve existing and

new containers and designs for new containers, and to authorize the affixing of safety approval plates; and

(3) establish a schedule of fees to be charged and collected for services performed by the Secretary, or under authority delegated by the Secretary, relating to the testing, inspection, and initial approval of containers and container designs.

(d) Those delegations made under subsection (c)(2) may be made to any person, including any public or private agency or nonprofit organization. The Secretary before making any delegation under such subsection, shall promulgate regulations relating to—

(1) the criteria to be followed in selecting a person, public or private agency, or nonprofit organization as a recipient of delegated functions under such subsection;

(2) the manner in which such recipient shall carry out such delegated functions, including the records such recipient must keep, and a detailed description of the exact functions such recipient may exercise; and

(3) the review that will be carried out by the Secretary to determine that any recipient of delegated functions is performing properly the functions so delegated.

No recipient of authority delegated under such subsection may assess or collect, or attempt to assess or collect, any penalty for violation of any provision of this Act, the Convention, or any order of the Secretary issued under this Act, or issue or attempt to issue any detention or other order. Any records required to be kept by regulations promulgated by the Secretary under this subsection shall be available to the Secretary, for inspection, upon request. The name and address of the recipient, if other than the owner, together with the functions so delegated and the period of designation, shall be published in the Federal Register and otherwise publicized as appropriate.

(e) The Secretary shall, to the maximum possible extent, encourage the development and use of intermodal transport, using containers constructed to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading while such cargo is in transport over land, air, and sea areas.

SEC. 5. ENFORCEMENT.

(a)(1) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, to ensure compliance with this Act, and with the Convention, the Secretary may—

(A) examine, or require to be examined, new containers, and existing containers which are subject to this Act, in international transport, and test, inspect, and approve designs for new containers and new containers being manufactured;

(B) issue a detention order removing or excluding a container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the standards of the Convention, if the container is subject to this Act and does not have a valid safety approval plate attached to it, or if there is significant evidence that such a container bearing a safety approval plate is in a condition which creates an obvious risk to safety; and

(C) take whatever other appropriate action he deems necessary, including issuance of any necessary orders, to remove the container involved from service, or restrict its use, in those instances where he finds that a container is not in compliance with the provisions of this Act or the Convention but does not present an obvious risk to safety. The Secretary may permit the movement to another location of a container which he finds to be unsafe or which does not have a valid safety approval plate affixed to it, under whatever restriction he considers necessary and consistent with the intent of the Convention, for repair or other appropriate disposition.

(2) Beginning on September 6, 1982, the Secretary may examine or require to be examined any existing container in international transport.

(b) The owner of the container involved in any action taken by the Secretary under this section with respect to an examination of a container, shall pay for or reimburse the Secretary for expenses arising from such actions, except for the costs of routine examinations of containers or safety approval plates. In addition, the owner of containers submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturers who submit designs of containers to the procedures established by the Secretary for testing, inspection, and initial approval shall pay for or reimburse the Secretary for the expenses arising from such testing, inspection or approval. Funds received by the Secretary in reimbursement shall be credited to the appropriations bearing the cost thereof.

(c) A container bearing a safety approval plate authorized by a country which is a party to the Convention shall be presumed to be in a safe condition unless there is significant evidence that the container creates an obvious risk to safety.

(d) Whenever the Secretary issues a detention or other order under this section, he shall promptly notify, in writing, either the owner of the container subject to such order, his agent, or, when the identity of such owner is not apparent from the container of shipping documents, the custodian. The notification shall reasonably identify the container involved, give the location of the container, and reasonably describe the condition or situation which gave rise to the order. An order issued by the Secretary under this section shall remain in effect until the container is declared by the Secretary, or under regulations promulgated by the Secretary, to be in compliance with the standards of the Convention, or until it is permanently removed from service, whichever first occurs.

(e) If there is reason to believe that a container to which there is affixed a safety approval plate issued by a foreign country was defective at the time of approval, the Secretary shall notify the country which issued the approval of such defect.

SEC. 6. PENALTIES.

(a) On and after the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, any owner, agent or custodian who—

(1) has been notified of an order issued by the Secretary under section 5; and

(2) fails to take reasonable and prompt action to prevent or stop a container subject to that order from being moved in violation of that order;

shall be subject to a civil penalty of not more than $5,000 for each countainer so moved. Each day the container remains in service while the order is in effect shall be treated as a separate violation.

(b) The Secretary shall assess and collect any penalty incurred under this section, and, in his direction may remit, mitigate, or compromise any such penalty. No penalty shall be assessed until after the person charged has been given notice and an opportunity for a hearing. In assessing, remitting, mitigating, or compromising a penalty the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of this Act or of the Convention. Upon failure of any person to pay any penalty assessed against him by the Secretary, the Secretary shall request the Attorney General to begin an action in any district court of the United States to recover the amount of the penalty unpaid.

SEC. 7. EMPLOYEE PROTECTION.

(a) No person shall discharge or in any manner discriminate against an employee because the employee has reported the existence of an unsafe container or reported a violation of this Act to the Secretary or his agents.

(b) An employee who believes that he has been discharged or discriminated against in violation of this section may within 60 days after the violation occurs, file a complaint alleging discrimination with the Secretary of Labor.

(c) The Secretary of Labor may investigate the complaint and, if he determines that this section has been violated, bring an action in an appropriate United States district court. The district court shall have jurisdiction to restrain violations of subsection (a) of this section and to order appropriate relief, includng rehiring and reinstatement of the employee to his former position with back pay.

(d) Within 30 days after the receipt of a complaint filed under this section the Secretary of Labor shall notify the complainant of his intended action regarding the complaint.

SEC. 8. AMENDMENTS TO THE CONVENTION.

(a) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the Convention or may request a conference for amending the Convention in accordance with article IX of the Convention. An amendment communicated to the United States in accordance with article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may make a declaration that the United States does not accept an amendment.

(b) The Secretary of State, with the concurrence of the Secretary, may propose amendments to the annexes of the Convention, may propose a conference for amending annexes to the Convention and shall consider and act on amendments to the annexes of the Convention adopted by the Maritime Safety Committee and communicated to the United States in accordance with article X(2) of the Convention. If a proposed amendment is approved by the United States, the amendment shall enter into force in accordance with article X of the Convention. If any proposed amendment is objected to, the Secretary of State shall promptly communicate the objection as provided in article X (3) of the Convention.

(c) The Secretary of State, with the concurrence of the Secretary, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

SEC. 9. AUTHORIZATION OF APPROPRIATION.

Beginning with the fiscal year ending September 30, 1979, and for each fiscal year thereafter, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

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

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

U.S. RAILWAY ASSOCIATION AUTHORIZATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 4049.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (H.R. 4049) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association.

(The amendment of the House is printed in the proceedings of the House in the RECORD of today.)

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. MAGNUSON), I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

S. 897—VITIATION OF UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, an agreement was entered into earlier today—as a matter of fact quite a long time ago, something like 14 hours—with respect to the nuclear nonproliferation bill, and it was subject to vitiation by either the minority or the majority leader.

It is my understanding from the minority leader that that agreement will have to be vitiated.

Mr. BAKER. Mr. President, if the majority leader will yield to me, apparently that is so. I am not quite sure at what point negotiations broke down once again, but apparently they have, and I join the majority leader in requesting the unanimous-consent order entered earlier today be vitiated.

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

Mr. ROBERT C. BYRD. Mr. President, I wish to say to the distinguished minority leader that I will continue to hope, as I believe he does also, that eventually an agreement can be worked out whereby that measure can be taken up early next year under a time limitation agreement.

Mr. BAKER. Mr. President, I join the majority leader in that hope. A great deal of work by more than one committee has gone into this matter. It appears they are tantalizingly close to an agreement on the measure and the procedure for handling the problem; so I join the majority leader in his hope for consideration of the measure early next year.

REDWOOD NATIONAL PARK

Mr. ROBERT C. BYRD. Mr. President, I have not discussed this with the distinguished minority leader, but I wonder if we could please the distinguished majority whip (Mr. CRANSTON) by getting an order entered at this time to proceed—on the 19th day of January when the Senate returns to begin the second session of the 95th Congress, after the two leaders or their designees have been recognized on that day under the standing order—to the consideration of S. 1976, a bill to add certain lands to the Redwood National Park in the State of California, to strengthen the economic base of the affected region, and for other purposes.

As I say, I have not mentioned this to the minority leader, and I will understand if he cannot enter into such an order, but there is a time limitation agreement on that measure, and I think that would be very pleasing to the Senator from California.

Mr. CRANSTON. Mr. President, I would be most grateful if that could be done.

Mr. ROBERT C. BYRD. I thought the Senator from California would feel that way.

Mr. BAKER. Mr. President, I ask that both the majority leader and the majority whip bear with me while I explain what I must say. I reluctantly must say I cannot agree to that at this time, for two reasons, one of those being the ending of the session before the statutory August nonlegislative period. There is also another matter. The simple fact is that while I have no objection to that procedure, the junior Senator from California (Mr. HAYAKAWA) is not present in the Chamber at this hour, it being 11:25 at night. I would be reluctant to proceed without him here, and there is no practical way to consult with him.

Let me offer an alternative suggestion in exchange: as soon as we return on the 28th, or during one of the pro forma sessions, if it is possible to clear that, I will be perfectly happy to try to formulate such an agreement at one of those periods.

Mr. ROBERT C. BYRD. I appreciate that, and I can understand the minority leader's reluctance to agree.

Mr. CRANSTON. I, too, understand the minority leader's position in that regard.

Mr. ROBERT C. BYRD. It was a fleeting thought that struck me, that I had no opportunity to discuss with either the minority leader or the majority whip. I do appreciate the minority leader's suggestion, and I hope we can work something out.

ORDER TO HOLD HOUSE CONCURRENT RESOLUTION 397 AT THE DESK

Mr. ROBERT C. BYRD. I ask unanimous consent that House Concurrent Resolution 397 be held at the desk pending further order.

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

WAR ON AMYOTROPHIC LATERAL SCLEROSIS

Mr. CRANSTON. Mr. President, I report from the Committee on Human Resources Senate Concurrent Resolution 26, and ask unanimous consent for its immediate consideration. This has been cleared on all sides.

The PRESIDING OFFICER. The concurrent resolution will be stated. Will the Senator send a copy of this resolution to the desk?

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 26) declaring a state of war against amyotrophic lateral sclerosis.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Human Resources with an amendment as follows:

Strike out all after the resolving clause and insert the following:

That it is the sense of Congress that action should be taken to focus national attention on the extent and consequences of amyotrophic lateral sclerosis and on the need for finding a cure for this disease.

Mr. CRANSTON. Mr. President, this resolution entails no expenditures of funds at all. It is cosponsored by 60 Senators. It focuses attention on the need for action to find a cure for amyotrophic lateral sclerosis, the disease that took Lou Gehrig's life. It is acceptable to the leadership of the House Commerce Committee's Subcommittee on Health and the Environment.

Mr. President, I wish to point out that the title of the resolution will be amended to read: "Expressing the sense of the Senate that action should be taken to focus national attention on the extent and consequences of and the need to find a cure for amyotrophic lateral sclerosis."

Mr. President, I ask unanimous consent that excerpts from the committee report on Senate Concurrent Resolution 26, filed today, be printed in the RECORD at this point.

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

EXCERPTS FROM COMMITTEE REPORT ON S. CON. RES. 26

INTRODUCTION

S. Con. Res. 26 was introduced on May 18, 1977, by Senators Alan Cranston, S. I. Hayakawa, and Mark O. Hatfield and referred to the Committee on Human Resources. On October 5, 1977, the resolution was reported from the Subcommittee on Health and Scientific Research and on October 20, 1977, the resolution was ordered favorably reported with amendments from the full Committee.

SUMMARY OF S. CON. RES. 26 AS REPORTED

Basic purpose

The basic purpose of S. Con. Res. 26 is to express the sense of Congress that action should be taken to focus national attention on the extent and consequences of amyotrophic lateral sclerosis and the need to find a cure for that disease.

Summary of provisions

The resolution sets forth the serious nature of amyotrophic lateral sclerosis, its impact on the quality of life of its victims and their families, its negative economic, social, and psychological impact, the failure of biomedical research to find a cause of and a cure for the disease, and expresses the sense of Congress that national attention should be focused on the extent and consequences of amyotrophic lateral sclerosis and the need to find a cure for this disease. The resolution does not commit any Federal resources to this goal but rather seeks to pro-

vide impetus and recognition for activities to mobilize private sector resources to achieve this important goal.

Discussion

Amyotrophic lateral sclerosis (ALS) is a relentless disorder affecting adults. It attacks the motor neurons—the nerve cells which control muscles—in the brain and spinal cord to produce progressive weakness and wasting of muscle tissue. Intellectual function is not impaired; patients remain fully alert and aware of events concerning and surrounding them.

To date no treatment has proven effective against ALS. Its cause is still unknown.

Thousands of Americans are diagnosed each year as having ALS. These individuals and their families suffer deeply from the impact of ALS.

Given the current absence of adequate treatment for many of the problems attending muscular weakness, the inventiveness and attentiveness of those caring for ALS patients can often make the biggest difference in the quality of the patient's life. Hence, many of these family members have been instrumental in developing organizational structures through which they can provide moral support and educational services to ALS victims and their families and help them live with the disease until a cure can be discovered.

To help these dedicated people reach out to each other, the Committee has reported Senate Concurrent Resolution No. 26 which will provide them with a rallying symbol for their efforts. This resolution does not seek the allocation of Federal resources to support this disease. It merely calls on Americans to help other Americans and their families in fighting their battles against ALS.

Incidence of ALS

ALS does not occur in any recognizable genetic or epidemiological pattern, striking its victims without warning or recourse.

ALS usually strikes adults between the ages of 35 and 70, with 50 being the average age. However, it occasionally occurs as early as the teens or twenties. It affects men three times more frequently than women.

The disease occurs in persons of every race and nationality. However, there is an exceptionally high incidence of ALS in four small clusters. One of these is among the native Chamorro people of Guam, located in the Marianna Islands. There, ALS develops in one out of every 10 adults.

Studies on Guam have shown that this form is familial but eludes a classic genetic pattern; instead of occurring in a predictable number and pattern of family members, the disease occurs occasionally in a family member or distant relative.

Excluding this Guamanian form, in approximately 95 percent of all other ALS patients, the disorder appears sporadically. Therefore, children of these patients are not considered to be at any greater risk in developing ALS than the general population. In the remaining 5 percent, a rare familial form occurs which, unlike the Guamanian form, has a definite genetic pattern. In this rare form, about one-half of the offspring can be expected to develop ALS.

Research by scientists at the National Institute of Neurological and Communicative Disorders and Stroke (NINCDS) has suggested that the familial form may be caused by a metabolic (chemical) abnormality. Clinically the sporadic and familial forms of ALS do not seem to differ.

Status of ALS Research

Although no treatment yet has proved to be effective against ALS, research conducted and supported by the NINCDS and by other Government agencies, medical centers, and private health agencies, is continuing to seek the cause and cure of ALS, since methods of treatment and prevention could flow from that discovery. Research is in progress to determine factors which might cause motor neurons to cease functioning. These include: virus infection; defects in the body's immune (defense) system; neurochemical abnormalities impeding communication between motor neurons: or subtle metabolic changes with the motor neuron itself. Possibly several of these factors may act together to cause ALS. Or, the cause may derive from other factors yet to be found.

The Island of Guam, with its high incidence of one type of ALS, has been one focus for NINCDS research efforts. At the NINCDS research center at Guam Memorial Hospital, ALS patients have been participating in studies to identify possible environmental factors which may be involved in the disease. To date, studies have not established any connection between ALS and the island's climate, the minerals in its soil or water, or the dietary habits of its people.

In addition, studies have shown that the disease on Guam does not occur in any recognizable genetic pattern. But this does not preclude the possibility that certain genetic factors might enhance susceptibility to some external cause of ALS. In fact, preliminary reports from Guam indicate that ALS patients may have a deficient immune (defense) system, although further data are needed to substantiate this finding. Possible immune system defects—which may or may not be inherited—are therefore being carefully studied in ALS patients by scientists on Guam and in this country.

The possibility that the factor causing ALS could be a virus is receiving considerable attention, prompted in part by earlier findings of several other human neurological disorders caused by "slow" or latent viruses which lie dormant in the body for years before they are somehow triggered into action. If a slow virus is involved, evidence has yet come to light to indicate that it is contagious. Furthermore, if ALS were caused by a common factor, an immune defect could explain why only those persons who are unable to ward off the factor eventually develop the disease. Guamanian ALS brain material, supplied to scientists from an NINCDS-supported "tissue bank," is being scrutinized for evidence of viruses which may be related to this disorder. Virus studies are currently under way by NINCDS scientists, and Institute-supported investigators at the Scripps Clinic and Foundation in La Jolla, California, at the University of Connecticut, and at the Massachusetts General Hospital.

A further investigation of environmental clues in American servicemen with ALS is currently being pursued by the NINCDS in conjunction with the National Academy of Sciences. The study also is expected to provide a prognostic description of the course of ALS which would be helpful in correlating clinical features with the patient's prognosis.

The NINCDS also supports two clinical ALS research programs. Although no curative treatment is currently being offered as part of these programs, information being gained on possible abnormalities may eventually lead to methods of treatment. For, if abnormalities are found, the next step would be to determine their relationship, if any, to ALS. Finally, if a cause-effect relationship were established, scientists then would have a rational approach to developing effective treatment. One of these programs is at St. Vincent's Hospital and Medical Center in New York.

The other clinical program is being conducted at the NIH Clinical Center. As part of this program, doctors are looking for clues to the disease process not only in ALS patients, but also in patients with atypical ALS and with disorders producing symptoms closely resembling those of ALS.

COST ESTIMATE

The adoption of this resolution involves no direct additional expenditure by the Federal Government.

Mr. CRANSTON. The concurrent resolution has been cleared on all sides. I move its adoption.

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

The amendment was agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

Expressing the sense of Congress that action should be taken to focus national attention on the extent and consequences of and the need to find a cure for amyotrophic lateral sclerosis.

Whereas amyotrophic lateral sclerosis, or Lou Gehrig's disease, constitutes a serious health problem in the United States in that it afflicts thousands of Americans annually;

Whereas the complications of amyotrophic lateral sclerosis significantly decrease the quality of life and have a major negative economic, social, and psychological impact on the families of its victims;

Whereas biomedical research efforts to date have been unsuccessful in finding the cause of amyotrophic lateral sclerosis;

Whereas the development of advanced methods of treatment of amyotrophic lateral sclerosis deserves national priority; and

Whereas the citizens of the United States should have a full understanding of the nature of the human, social, and economic impact of amyotrophic lateral sclerosis and of the need to discover its cause and to develop a cure: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that action should be taken to focus national attention on the extent and consequences of amyotrophic lateral sclerosis and on the need for finding a cure for this disease.

Mr. CRANSTON. I ask unanimous consent that the title be appropriately amended.

There being no objection, the title was amended so as to read:

Concurrent resolution expressing the sense of Congress that action should be taken to focus national attention on the extent and consequences of and the need to find a cure for amyotrophic lateral sclerosis.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to, and I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the resolution be printed as passed by the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, and that Senators may be allowed to make statements therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 8:57 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that:

The House has passed without amendment the bill (S. 2281) authorizing an increase in the monetary authorization for nine comprehensive river basin plans.

The House has agreed to, without amendment, the following concurrent resolutions:

S. Con. Res. 52. A concurrent resolution authorizing the printing of additional copies of the booklet entitled "The Senate Chamber, 1810–1859".

S. Con. Res. 53. A concurrent resolution authorizing the printing of additional copies of hearings entitled "Panama Canal Treaties".

The House agrees to the amendment of the Senate to the bill (H.R. 4049) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations for the U.S. Railway Association, with an amendment in which it requests the concurrence of the Senate.

The House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 82 to the bill (H.R. 7555) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1978, and for other purposes.

The House agrees to the amendment of the Senate to the bill (H.R. 8701) to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowance paid to eligible veterans and persons, to make improvements in the educational assistance programs, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1131) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1750) to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act, as amended, to conduct studies concerning toxic and carcinogenic substances in foods, to conduct studies concerning saccharin, its impurities and toxicity and the health benefits, if any, resulting from the use of nonnutritive sweeteners including saccharin; to ban the Secretary of Health, Education, and Welfare from taking action with regard to saccharin for 18 months, and to add additional provisions to section 403 of the Federal Food, Drug, and Cosmetic Act, as amended, concerning misbranded foods.

The House agrees to the amendments of the Senate to the bill (H.R. 2501) to provide for the amendment of the public survey records to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold tract within the Medicine Bow National Forest, Wyo.

The House agrees to the amendment of the Senate to the bill (H.R. 8346) to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act.

The House agrees to the amendments of the Senate to the resolution (H. Con. Res. 182) providing for the printing as a House document of the pamphlet entitled "Black Americans in Congress."

The House agrees to the amendment of the Senate to the resolution (H. Con. Res. 190) to provide for the printing of the brochure entitled "How Our Laws Are Made."

The House agrees to the amendments of the Senate to the resolution (H. Con. Res. 204) to authorize the printing of a revised edition of "Our Flag" as a House document.

The House agrees to the amendments of the Senate to the resolution (H. Con. Res. 205) to authorize the printing of a revised edition of "Our American Government" as a House document.

The House agrees to the amendments of the Senate to the resolution (H. Con. Res. 217) to provide for the printing of a revised edition of "The Constitution of the United States of America."

The House agrees to the amendments of the Senate to the resolution (H. Con. Res. 222) to authorize the printing of a revised edition of "The Capitol" as a House document.

The House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 106) to provide for furthering the conservation, protection, and enhancement of the Nation's land, water, and related resources for sustained use, and for other purposes.

The House has passed the joint resolution (H.J. Res. 643) making further continuing appropriations for the fiscal year 1978, and for other purposes, in which it requests the concurrence of the Senate.

The House has agreed to the concurrent resolution (H. Con. Res. 397) correcting the enrollment of S. 1131, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:55 p.m., a message from the House of Representatives by Mr. Berry announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2281. An act authorizing an increase in the monetary authorization for nine comprehensive river basin plans;

H.R. 2501. An act to eliminate a conflict between the official cadastral survey and a private survey of the so-called Wold tract within the Medicine Bow National Forest, State of Wyoming;

H.R. 8346. An act to amend the Urban Mass Transportation Act of 1964 to revise the program of Federal operating assistance provided under section 17 of such act;

H.R. 8499. An act to amend the Alaska Claims Settlement act;

H.R. 8992. An act to amend title 3 of the United States Code to change the name of the Executive Protective Service;

H.R. 9704. An act to amend the Federal Crop Insurance Act, and for other purposes;

H.R. 9836. An act to authorize the Architect of the Capitol to furnish chilled water to the Folger Shakespeare Library; and

H.J. Res. 611. Joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

The enrolled bills were subsequently signed by the President pro tempore.

ENROLLED BILLS SIGNED

At 2:55 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bills:

S. 106. An act to provide for furthering the conservation, protection, and enhancement of the Nation's soil, water, and related resources for sustained use, and for other purposes;

S. 1184. An act to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1978; and

S. 1269. An act for the relief of Camilla R. Hester.

The enrolled bills were subsequently signed by the President pro tempore.

At 3:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that:

The House agrees to the amendments of the Senate to the bill (H.R. 8175) to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, approved October 22, 1975, as amended, in order to extend certain provisions thereof, and for other purposes.

The House has passed, without amendment, the joint resolution (S.J. Res. 81) to express the sense of the Congress that, in the light of history, the third Thurs-

day in December 1977, would be a most appropriate day for designation as the "National Day of Prayer for the Year 1977," and respectfully to request that the President, under the provisions of Public Law 82–324, issue a proclamation designating such date as a "National Day of Prayer for the Year 1977."

ENROLLED BILL SIGNED

At 4:32 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the Speaker has signed the following enrolled bill:

S. 1560. An act to restore the Confederated Tribes of Siletz Indians of Oregon as a federally recognized sovereign Indian tribe, to restore to the Confederated Tribes of Siletz Indians of Oregon and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–2244. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Coffee: Production and Marketing Systems" (ID–77–54, October 28, 1977) (with an accompanying report); to the Committee on Agriculture, Nutrition, and Forestry.

EC–2245. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, the third quarter fiscal year 1977 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, material, and for expenses involving the production of lumber and timber products (with an accompanying report); to the Committee on Appropriations.

EC–2246. A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on the proposed use of $750,000 of R. & D. funds to provide a process storage facility for Solid Rocket Motro segments at the Thiokol Plant in Brigham City, Utah (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2247. A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a report on the proposed use of $1.4 million of R. & D. funds to provide for the construction of an addition to Building 14 for a Network Operations Control Center at the Goddard Space Flight Center, Greenbelt, Maryland (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2248. A letter from the Secretary of Transportation transmitting, pursuant to law, the report on the effectiveness of the Civil Aviation Security Program for the period January 1 through June 30 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–2249. A letter from the Secretary of the Department of the Interior transmitting, pursuant to law, the receipt of a project proposal from the Farmington Pressurized Irrigation District, Farmington, Utah for a loan of $1,454,000 to account for cost escalation occurring on its original loan proposal (with accompanying papers); to the Committee on Energy and Natural Resources.

EC–2250. A letter from the Administrator of the General Services Administration transmitting, pursuant to law, a prospectus for alterations at the Lexington, Kentucky, U.S. Post Office-Courthouse, in the amount of $1,763,000 (with accompanying papers); to the Committee on Environment and Public Works.

EC–2251. A letter from the Secretary of the Treasury transmitting a draft of proposed legislation to provide for greater flexibility in the requirements for supervision of operations at distilled spirits plants (with accompanying papers); to the Committee on Finance.

EC–2252. A letter from the Deputy Administrator of the Veterans Administration transmitting, pursuant to law, a report on activities in the disposal of foreign excess property covering the period October 1, 1976 through September 30, 1977 (with an accompanying report); to the Committee on Govtee on Governmental Affairs.

EC–2253. A letter from the Administrator of the General Services Administration transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize transportation for certain persons engaged in the continuity of Government program (with accompanying papers); to the Committee on Governmental Affairs.

EC–2254. A letter from the Executive Secretary of the Federal Deposit Insurance Corporation transmitting, pursuant to law, notice that a previously proposed new system of records will not be established and the request for waiver of the sixty-day advance notice has been withdrawn: to the Committee on Governmental Affairs.

EC–2255. A letter from the General Counsel of the Copyright Office of the Library of Congress transmitting, pursuant to law, a new systems report, in accordance with the Privacy Act (with an accompanying report); to the Committee on Governmental Affairs.

EC–2256. A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the operations to provide a career system for air traffic controllers (with an accompanying report); to the Committee on Governmental Affairs.

EC–2257. A letter from the Acting Comptroller General of the United States transmitting, pursuant to law, a report entitled "Need to Strengthen Justification and Approval Process for Military Aircraft Used for Training, Replacement, and Overhaul" (LCD–77–423, October 28, 1977) (with an accompanying report); to the Committee on Governmental Affairs.

EC–2258. A letter from the Executive Secretary to the Department of Health, Education, and Welfare transmitting, pursuant to law, a copy of a document concerning veterans' cost of instruction payments to institutions of higher education which has been transmitted to the Federal Register for scheduled publication (with accompanying papers); to the Committee on Human Resources.

EC–2259. A letter from the U.S. Commissioner of Education transmitting, pursuant to law, a report concerning the Veterans' Cost-of-Instruction Program (with an accompanying report); to the Committee on Human Resources.

EC–2260. A letter from the Commissioner of the Immigration and Naturalization Service of the Department of Justice transmitting, pursuant to law, copies of orders suspending deportation, as well as a list of the persons involved (with accompanying papers); to the Committee on the Judiciary.

EC–2261. A letter from the President of the National Safety Council transmitting, pursuant to law, a report of the audit of the financial transactions of the National Safety Council for the fiscal year ended June 30, 1977 (with an accompanying report); to the Committee on the Judiciary.

EC–2262. A letter from the Commissioner of the Immigration and Naturalization Service of the Department of Justice transmitting, pursuant to law, copies of orders entered in 1,027 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens (with accompanying papers); to the Committee on the Judiciary.

EC–2263. A letter from the Secretary of Health, Education, and Welfare transmitting, for the information of the Senate, a report commenting on the recommendations of the Privacy Study Commission with respect to medical records (with an accompanying report); to the Committee on Human Resources.

REPORT OF THE SECRETARY OF THE SENATE—EC–2264

The PRESIDING OFFICER laid before the Senate the following letter from the Secretary of the Senate, which was ordered to lie on the table:

WASHINGTON, D.C.,
November 4, 1977.

Hon. WALTER F. MONDALE,
President of the United States Senate.

SIR: I have the honor to submit a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in my possession from April 1, 1977, through September 30, 1977, in compliance with section 105 of Public Law 88–454, approved August 20, 1964, as amended.

Respectfully,

J. S. KIMMITT,
Secretary of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

With amendments:

S. 1704. A bill to provide for two additional Assistant Secretaries of Agriculture, and for other purposes (Rept. No. 95–598).

Without amendment:

S. 1730. A bill to provide for an additional Assistant Secretary in the Department of the Treasury (Rept. No. 95–599).

By Mr. CRANSTON, from the Committee on Human Resources:

Without an amendment:

S. Con. Res. 26. Concurrent resolution declaring a state of war against amyotrophic lateral sclerosis (title amendment) (Rept. No. 95–600).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Gerald D. Fines, of Illinois, to be U.S. attorney for the southern district of Illinois.

(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.)

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that the following enrolled bills have

been presented to the President of the United States:

On November 3, 1977:

S. 1142. An act for the relief of Kam Lin Cheung; and

S. 2052. An act to extend the supervision of the U.S. Capitol Police to certain facilities leased by the Office of Technology Assessment;

On November 4, 1977:

S. 854. An act to authorize the Secretary of Commerce to sell two obsolete vessels to Mid-Pacific Sea Harvesters, Incorporated, and for other purposes;

S. 1062. An act to amend section 441 of the District of Columbia Self-Government and Governmental Reorganization Act;

S. 1339. An act to authorize appropriations for the Energy Research and Development Administration for national security programs for fiscal years 1977 and 1978, and for other purposes;

S. 1528. An act to amend section 2 of the Safe Drinking Water Act (Public Law 93-523) to extend and increase authorizations provided for public water systems; and

S. 1863. An act to authorize appropriations during fiscal year 1978, in addition to amounts previously authorized, for procurement of aircraft and missiles for the Navy and the Air Force and for research, development, test, and evaluation for the Air Force and the Defense agencies, and for other purposes.

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. McINTYRE:

S. 2293. A bill to authorize and provide for the regulation of the use of electronic funds transfer systems by financial institutions, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 2294. A bill for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. HATHAWAY, and Mr. WILLIAMS):

S. 2295. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics; to the Committee on Human Resources.

By Mr. JOHNSTON (for himself and Mr. NELSON):

S. 2296. A bill to amend the Small Business Act and the Small Business Investment Act to create a Bureau of Minority Business and Economic Development, and for other purposes; to the Select Committee on Small Business.

By Mr. CANNON (for himself, Mr. McCLURE, Mr. WALLOP, Mr. LAXALT, Mr. GOLDWATER, Mr. DOMENICI, Mr. GARN, Mr. HANSEN, and Mr. HATCH):

S. 2297. A bill to amend Public Law 94-579; to the Committee on Energy and Natural Resources.

By Mr. MORGAN (for himself and Mr. HUMPHREY):

S. 2298. A bill to authorize the Secretary of Agriculture to carry out a pilot program to provide mortgage credit for low and moderate income families, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

By Mr. McCLURE:

S. 2299. A bill for the relief of Francisco Ronquillo and Rubein Leonardo Ronquillo; to the Committee on the Judiciary.

By Mr. BAYH (for himself, Mr. HUMPHREY, Mr. KENNEDY, Mr. BROOKE, Mr. ABOUREZK, Mr. METZENBAUM, Mr. MATHIAS, Mr. JAVITS, and Mr. WILLIAMS):

S. 2300. A bill to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes; to the Committee on the Judiciary.

By Mr. HATHAWAY:

S. 2301. A bill to require an immigrant alien to maintain a permanent residence as a condition for entering and remaining in the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. EAGLETON, Mr. MAGNUSON, Mr. MATHIAS, and Mr. HATCH):

S. 2302. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to the States to reimburse the costs of studies to assess the cost of compliance with section 504 of the Rehabilitation Act of 1973 with respect to educational programs, and to make grants to educational institutions to pay the Federal share of the costs of such compliance, and for other purposes; to the Committee on Human Resources.

By Mr. MELCHER:

S. 2303. A bill to declare a national policy on conservation, development and utilization of natural resources, assurance of resources for economic growth and national security, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HELMS (for himself, Mr. DOLE, Mr. HAYAKAWA, Mr. McCLURE, and Mr. THURMOND):

S. 2304. A bill to require that the Hungarian Crown of Saint Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on Foreign Relations.

By Mr. WILLIAMS (for himself, Mr. PROXMIRE, Mr. SPARKMAN, Mr. McINTYRE, Mr. CRANSTON, Mr. STEVENSON, Mr. MORGAN, Mr. RIEGLE, Mr. SARBANES, Mr. NELSON, Mr. NUNN, Mr. HATHAWAY, Mr. HASKELL, Mr. CULVER, Mr. BROOKE, Mr. TOWER, Mr. GARN, Mr. HEINZ, Mr. LUGAR, Mr. SCHMITT, Mr. WEICKER, Mr. PACKWOOD, Mr. BARTLETT, and Mr. HAYAKAWA):

S. 2305. A bill to amend the Securities Act of 1933; to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2306. A bill to establish a national system of reserves for the protection of outstanding ecological, scenic, historic, cultural, and recreational landscapes, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HANSEN:

S. 2307. A bill to amend the Interstate Commerce Act to prohibit the amount which any common carrier by motor vehicle charges any shipper for the transportation of the household goods of such shipper from exceeding by more than 10 per centum purposes; to the Committee on the Judithe estimate provided by such carrier for the transportation of such household goods; to the Committee on Commerce, Science, and Transportation.

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

S.J. Res. 98. Joint resolution to authorize and request the President to issue a proclamation designating May 21, 1978 as "National Fallen Heroes Day," and for other ciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McINTYRE:

S. 2293. A bill to authorize and provide for the regulation of the use of electronic funds transfer systems by financial institutions, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ELECTRONIC FUNDS TRANSFER ACT OF 1977

Mr. McINTYRE. Mr. President, on Friday, October 28, the Congress received the final report of the National Commission on Electronic Fund Transfers, entitled "EFT in the United States, Policy Recommendations and the Public Interest."

The Commission was established by the Congress pursuant to Public Law 93-495 to advise the Congress on a number of fundamental considerations regarding the increasing role and impact of technology on the way in which millions of Americans daily conduct their financial affairs.

As the author of the bill creating the Commission, I have followed its deliberations closely. In March of this year, the Subcommittee on Financial Institutions, which I chair, held oversight hearings on the interim report of the Commission. The final report should now provide a useful and constructive basis for considering many of the public policy issues which Congress must promptly and appropriately address.

As a consequence of the Commission's report, I am today introducing a bill designed to implement several of the Commission's key recommendations, particularly those regarding the relationship between electronic funds transfer systems and traditional branch banking laws. The purpose of this legislation, therefore, is to stimulate an awareness of the Commission's recommendations in the hope of resolving certain basic issues as quickly as possible.

In this regard, this legislation is a logical next step to the work which the Subcommittee on Finance Institutions has already done in the area of Federal branch banking policy. In the fall of 1976, the subcommittee delved considerably into the question of branch banking generally, including its relationship to the emergence of EFTS. Following publication of the "Compendium of Issues Relating to Branching by Financial Institutions," designed as a basis working document on the issue, the subcommittee held hearings in Chicago, Dallas, San Francisco, and Washintgon to explore the many ramifications of Federal branching policy, particularly those relating to EFTS.

In essence, I agree with the basic thrust of the Commission's findings in this area. Nevertheless, I hasten to point out that the work the Subcommittee has done to date on Federal branching policy has so convinced me of the need to modernize our banking laws with regard to the geographic placement of banking services that I am more interested that this objective be served than I am in any particular or specific legislative agenda for achieving this objective. Therefore,

this bill, implementing the recommendations of the EFTS Commission, is intended to provide the necessary catalyst to an understanding of how best to serve the banking needs of the American public in the 1980's and beyond.

At the very least, Mr. President, financial institutions must be permitted to service their customers through electronic means or otherwise where they live, work, and shop.

In the years to come, outdated prohibitions and restrictions must give way to greater competition among financial institutions and greater convenience to the American public, consistent at all times with adequate consumer safeguards. In this regard, there is already pending before the Senate S. 2065, a bill which specifically addresses certain consumer rights and remedies pertaining to EFTS.

In addition to the EFTS/branching issue, this bill addresses the very important issues of consumer privacy, sharing of facilities and the role of government in EFT. The EFT/privacy issue parallels the work which the subcommittee also intends to undertake early next year on financial privacy legislation, generally.

While these are the principal issues meriting prompt consideration by the Congress, legislative deliberations on these may very well give rise to the need for consideration of additional issues as well.

Therefore, Mr. President, I offer this bill as a good faith but arm's length effort to capture certain key recommendations of the Commission.

I intend to schedule hearings on the bill in the Subcommittee on Financial Institutions as early as possible in the next session of Congress in order to seek the most appropriate way of permitting our financial institutions to best serve the needs and convenience of their customers through EFTS.

Mr. President, I ask unanimous consent that this bill and the accompanying section-by-section summary be printed in the RECORD at this point.

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

S. 2293

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 "Electronic Funds Transfer Act of 1977".

FINDINGS

SEC. 2. The Congress finds that the extension of electronic funds transfer systems can benefit consumers in a number of significant ways, and that affording maximum consumer and user convenience and choice in access to and use of both funds transfer and credit-extension services will serve the public interest. The Congress wishes to promote competition among financial institutions and other business enterprises using electronic funds transfer systems and services, and to insure that Government regulation and involvement or participation in a system competitive with the private sector is kept to a minimum. The Congress further finds that the public interest in preventing unfair or discriminatory practices in the field of electronic funds transfer services, in preserving competition among users, and in reducing costs of such services, is best achieved by the removal of inappropriate geographical restrictions on terminal deployment and service offerings, and by insuring that Government facilities or services do not displace private sector alternatives.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) "antitrust laws" means the Antitrust Acts as defined in the Federal Trade Commission Act (15 U.S.C. § 44), and all Acts amendatory of and supplementary to the Acts listed therein.

(b) "appropriate supervisory agency" means (1) the Comptroller of the Currency in the case of a national banking association or a District bank, (2) the Federal Home Loan Bank Board in the case of a Federal savings and loan association, (3) the Administrator of the National Credit Union Administration in the case of a Federal credit union, and (4) the State authority performing examination and supervisory functions in the case of a State financial institution.

(c) "automated clearing house association" means a group of financial institutions, whether organized as a nonprofit corporation or unincorporated association or otherwise, which have entered into an agreement establishing rules and procedures for the exchange of charges or payments or crediting of deposits by each member with each other member through electronic methods including the delivery of computer tapes.

(d) "deposit services" means arrangements which enable a customer to have a deposit credited to his account at a financial institution.

(e) "electronic funds transfer system" means any network comprised of one or more customer terminals or automated-teller-machines, together with any related customer access cards or devices, communication lines, switches for routing messages, and computer processing facilities, and the messages transmitted through such network.

(1) "Automated-teller-machine" means any device, whether or not linked to a financial institution by a communication line, which is activated solely by the customer of the financial institution and enables the customer to make deposits, issue instructions to make transfers between accounts, or make withdrawals from deposit accounts or pursuant to previously arranged lines of credit.

(2) "Customer terminal" means an electronic device, which may require the participation of an operator other than the customer but is made accessible to customers of a financial institution, used to communicate information or instructions pertaining to (i) accounts in financial institutions, (ii) prior or contemplated transactions or (iii) previously arranged lines of credit.

(3) The terms "automated-teller-machine" and "customer terminal" shall not include a general purpose telephone connected to the message-toll telephone service switched network and used for oral instructions exclusively.

(f) "Federal banking laws" means the National Bank Act, the Home Owners' Loan Act of 1933, the Federal Credit Union Act, the Federal Deposit Insurance Corporation Act, the Federal Reserve Act, Title IV of the National Housing Act of 1934, the Federal Home Loan Bank Act, and all other provisions of title 12, United States Code, which pertain to the regulation or supervision of financial institutions, as amended from time to time.

(g) "Federal financial institution" means (1) any national banking association or a District bank, (2) any Federal savings and loan association, and (3) any Federal credit union.

(h) "financial institution" means any Federal financial institution and any State financial institution.

(i) "natural market area" of a financial institution means the standard metropolitan statistical area, as defined by the Office of Management and Budget, in which the main or a branch office of that financial institution may be located and all standard metropolitan statistical areas contiguous thereto, together with such additional or other area as is determined by the appropriate supervisory agency to constitute a geographic trading area within which that financial institution may effectively complete.

(j) "off-premises" means not situated at an office of a financial institution.

(k) "State financial institution" means any State chartered bank, savings bank, mutual savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, credit union, or similar depository institution subject to examination and supervision under State law.

ESTABLISHMENT AND USE

SEC. 4. (a) A Federal financial institution may, subject to the provisions of subsection (b), establish or use an electronic funds transfer system at any location within the United States, or in foreign countries to the extent permitted by the laws of such countries.

(b) A Federal financial institution may not offer deposit services through an electronic funds transfer system, whether owned and operated by itself or by another, at any location outside the State in which its main office is located, except that such deposit services may be offered (1) in States which have, through legislation or rulings on a reciprocal or other basis, permitted such services to be offered by out-of-state financial institutions, and (2) subsequent to January 1, 1980, within its natural market area.

(c) A Federal financial institution which owns or operates an electronic funds transfer system may perform for others in connection therewith any services that they are authorized to undertake or offer the public.

(d) An electronic funds transfer system and the components thereof and their use at any location shall not constitute a "branch" within the meaning of any of the Federal banking laws, nor shall their presence or use at a business location other than an office of a financial institution constitute the carrying on of the business of banking by such business.

SHARING

SEC. 5. (a) The application of the antitrust laws to the establishment, operation, sharing or use of electronic funds transfer systems shall not be limited or restricted in any way by the terms or existence of State legislation or regulation or by any provision of this Act. Any State legislation or procedure which purports to mandate access to or the use of an electronic funds transfer system by persons or entities not entitled thereto through agreement with the proprietor thereof is hereby expressly pre-empted and nullified.

(b) A financial institution which applies to a systems proprietor for access to an electronic funds transfer system on the same terms and conditions as have theretofore been extended by the proprietor to another financial institution, and is denied access on terms comparable to those afforded to such third party, may request the assistance, in a mediating capacity, of the appropriate supervisory agency for such institution or, where applicable, for the system proprietor, and the approprite supervisory agencies for Federal financial institutions are authorized to render such assistance.

(c) If a financial institution which is unable to negotiate access to an electronic funds transfer system decides to pursue the remedies which may be available to it

under the antitrust laws, it may bring a civil action against the system proprietor in the judicial district in which is located the principal place of business of the plaintiff or of the defendant, or in any judicial district in which the defendant is doing business.

(d) Every proceeding in the United States district courts in accordance with subsection (c) shall be given precedence over other cases on the docket of the court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

GOVERNMENT ACCESS TO RECORDS

SEC. 6. (a) No officer, employee, or agent of the United States or of any agency or department thereof or of any State or local government or agency or department thereof may obtain from a financial institution, and no financial institution or officer, employee, or agent thereof may provide to such governmental body or person, copies of or access to or the information contained in the financial records of any customer of such financial institution, unless the financial records are described with particularity and disclosed in response to:

(1) a written statement by such customer expressly authorizing such disclosure; or

(2) a reporting requirement imposed on the financial institution by express statutory provisions; or

(3) an administrative subpoena or summons otherwise authorized by law or a judicial subpoena, if (i) accompanied by certification of service of a copy on such customer, in person or by certified or registered mail to his last known address, at least 10 days before such disclosure, and (ii) no notice not to comply has been received by the financial institution from such customer; or

(4) a court order directing compliance with a summons or subpoena, issued by the court after notice to and opportunity for the customer to challenge such summons or subpoena; or

(5) a search warrant, if accompanied by certification of service of a copy on such customer in person; or

(6) a summons or subpoena issued ex parte by a court upon a determination, on the basis of the facts and circumstances alleged, that there is reasonable cause to believe the giving of notice and opportunity for challenge may lead to attempts (i) to conceal, destroy, or alter records relevant to the examination, (ii) to prevent the communication of information from other persons through intimidation, bribery, or collusion, or (iii) to flee to avoid prosecution, testifying, or production of records.

(b) The United States District Court for the district within which the customer resides or is found shall have jurisdiction without regard to the amount in controversy to hear and determine proceedings brought under subsections (a)(4) and (a)(6) by an officer, employee, or agent of the United States or of any agency or department thereof, or brought by any person affected to enforce compliance with this section or section 7(c).

(c) Nothing in this section shall prohibit (1) the request for or provision of information which is not identified with or identifiable as being derived from the financial records of a particular customer, (2) examination by or disclosure to any supervisory agency of financial records solely in the exercise of its supervisory functions, or (3) the making of reports or returns required by the Internal Revenue Code of 1954.

CUSTOMER RIGHTS

SEC. 7. (a) Each financial institution shall disclose clearly and conspicuously, in accordance with regulations prescribed by the Board of Governors of the Federal Reserve System, to each customer for whom it furnishes services through an electronic funds transfer system, information concerning the customer's primary rights and responsibilities under applicable law governing such transactions.

(b) The rights and remedies of parties to transactions involving an electronic funds transfer system shall be governed by State law, except as otherwise provided in this Act or other federal statutes. In the absence of State statute expressly applicable to transactions involving electronic funds transfer systems, payment transactions shall be treated under State law as check transactions and extension of credit transactions shall be treated under State and federal law as consumer credit card transactions.

(c) No financial institution, or person who has obtained such information from a financial institution, shall provide to any other person information contained in the financial records of any customer of such financial institution, except:

(1) as previously disclosed to such customer and in accordance with the terms of the agreement between the customer and such financial institution; or

(2) as expressly authorized by the customer for a particular purpose or transaction; or

(3) as necessary to verify or complete transactions, or to ascertain the existence or improper use of the customer's account; or

(4) as necessary to enable its auditors or outside counsel to perform their duties in the normal course of business; or

(5) as permitted under section 6; or

(6) pursuant to the order of a court of competent jurisdiction; or

(7) information which is not identified with or identifiable as being derived from the financial records of a particular customer.

AUTOMATED CLEARING HOUSES

SEC. 8. (a) The Federal Reserve Banks may furnish operating, clearing, delivery, settlement or other services to an automated clearing house association only if such association permits membership and full access to its services to all financial institutions on terms which reflect only cost-justified differences.

(b) Each Federal Reserve Bank shall, in accordance with rules prescribed by the Board of Governors of the Federal Reserve System, separately offer and charge for each service furnished to an automated clearing house association. Each such charge shall cover the fully-allocated cost of providing the service, including a rate of return on capital commensurate with the risk to a private enterprise providing an equivalent service.

(c) Except to the extent authorized in this section, no Federal Reserve Bank or Federal Home Loan Bank shall engage in the offering of electronic funds transfer system services to financial institutions or other persons.

REGULATIONS

SEC. 9. (a) The appropriate supervisory agency shall prescribe regulations for the establishment, operation, sharing and use by federal financial institutions of electronic funds transfer systems, consistent with the provisions of this Act.

(b) Such regulations shall provide a procedure for authorization of the establishment of electronic funds transfer systems upon written notice to the appropriate supervisory agency, containing such information as it may require with respect to locations and operations. To the extent that the system will include the performance of deposit-taking functions, application must be made for the prior approval of the appropriate supervisory agency, but unless disapproved within 60 days, the application will be deemed to have been approved. Disapproval may not be based upon a capitalization or other requirement related to the number of customer terminals or automated-teller-machines contained in the system, nor upon a judgment by the agency as to the suitability of the locations chosen or the area to be served.

STUDY

SEC. 10. The Board of Governors of the Federal Reserve System shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation if necessary in connection with the possible effects of the development of electronic funds transfer systems on low-income persons, taking into account among other things the criteria listed in section 2403(a) of title 12, United States Code. The Board shall transmit to the President and the Congress not later than June 30, 1979, a final report of its findings and recommendations. The report shall include all hearing transcripts, staff studies and other material used in its preparation, and shall be available to the public upon transmittal.

SECTION-BY-SECTION SUMMARY

Section 1—Title. The bill is entitled the "Electronic Funds Transfer Act of 1977."

Section 2—Findings. The Congress finds that consumers will be benefitted by the extension of electronic funds transfer systems through competition among financial institutions and other business enterprises seeking to attract customers by offering convenient and useful funds transfer and credit extension services. The Congress further finds that the public interest would be served by removing inappropriate geographical restrictions on the offering of such services and by preventing government regulation or operation of such systems from blocking their competitive development.

Section 3—Definitions. This section defines a number of terms used in the bill, of which the more significant are the following. The term "automated clearing house association" is defined as any entity established by a group of financial institutions for the exchange by electronic means of credits and debits by each member with any other member institution. Most automated clearing house associations have been organized as nonprofit corporations, but that is not essential; however, correspondent banking relationships would not be included.

An "electronic funds transfer system" is defined broadly to include the network and all its components, such as access terminals and identification devices, communication lines, switches and computer processing facilities, together with the messages transmitted through the network. Access terminals may be in the form of automated teller machines or point-of-sale or other forms of customer terminals, as defined, but do not include telephones even though used to give oral instructions to a financial institution as to transactions in a customer's account. Since the definition comprises only terminals to which the customers of a financial institution have some form of direct access, it would not apply to purely inter-institutional networks such as the Bank Wire or Fed Wire.

The "natural market area" of a financial institution is defined to include, at a minimum, any standard metropolitan statistical area (SMSA) in which it has an office and any SMSA contiguous thereto. In addition, and in the case of a financial institution located outside any SMSA, the appropriate supervisory agency, as defined, for a financial institution may determine that certain territory is included in its natural market area.

Section 4—Establishment and Use. Subsection (a) confers general authority on federal financial institutions—national banks, federal savings and loan associations, and federal credit unions—to establish or

make use of electronic funds transfer systems (EFTS) in the United States or abroad. The form and extent of services offered would be determined by each institution, in the light of its perception of customer demand and applicable costs. The extent of authority for state financial institutions would be a matter within the jurisdiction of state legislatures.

Subsection (b) limits the general authority of subsection (a), by prohibiting federal financial institutions from offering deposit services through EFTS outside their home state. This prohibition is subject to two limited exceptions: out-of-state deposit services may be offered (1) in those states in which it is permitted by state law and (2) after a transition period, within the institution's natural market area, if that extends beyond state boundaries.

Subsection (c) explicitly authorizes a federal financial institution which owns or operates an electronic funds transfer system to make it available for use by other financial institutions, retailers or other businesses to serve their customers as permitted by law. Thus one institution could establish or operate a system utilized by others on a franchise, lease, correspondent or other basis.

Subsection (d) makes clear that the geographical extent of EFTS development is to be governed by this bill and competition in the banking marketplace, and not by state and federal restrictions upon branching and the conduct of the banking business. In particular, the provisions of the McFadden Act (12 U.S.C. 36) will not determine the deployment of EFTS terminals.

Section 5—Sharing. Subsection (a) makes clear the intended primacy of the federal antitrust laws in assuring the development of a competitive structure of electronic funds transfer systems and services. State mandatory-sharing statutes, which will tend to thwart the formation of rival networks in that state, are expressly pre-empted. Subsection (b) would enable a financial institution which believes it has been denied access to an EFT system on a basis that is anti-competitive or discriminatory to seek assistance from an appropriate supervisory agency in obtaining reconsideration of the denial. The institution denied access may also pursue its remedies under the antitrust laws, which expanded venue under subsection (c) and expedited treatment under subsection (d).

Section 6—Government Access to Records. This section creates a general right of privacy with respect to the power of government to obtain access to a customer's financial records. Subsection (a) prohibits Federal, State and local government access to the records of a customer of a financial institution except pursuant to (1) the customer's consent, (2) an express statutory reporting requirement, or (3) some form of subpoena or warrant issued either on the basis of a showing of cause or necessity or in a manner affording the customer an opportunity for challenge. Jurisdiction to enforce the section is given to the federal courts by subsection (b).

Subsection (c) makes it clear that the section does not prevent (1) the disclosure of information in an aggregate or other form not identifiable with a particular customer, (2) the performance by the banking agencies of their examination and supervisory functions, and (3) the making of reports required under the Internal Revenue Code.

Section 7—Customer Rights. Subsection (a) confers on the Board of Governors of the Federal Reserve System general authority to prescribe disclosure regulations applicable to all financial institutions offering EFTS services to their customers. Since this field is in a stage of rapid development and change, the exact form and content of disclosure is to be determined from time to time by the Federal Reserve Board (FRB), rather than being specified by the bill.

Subsection (b) is intended to allow state law to continue to serve as the primary source for definition of the rights and duties of parties to EFTS transactions, just as it now serves as the primary source for determining legal relationships in most commercial transactions. A set of amendments to the Uniform Commercial Code, to make specific reference to those aspects of EFTS transactions that are unique or not clearly encompassed by existing provisions, is now in process of preparation, but that process is one that will take a substantial period of time. In the interim, subsection (b) gives the courts some general guidance in trying to apply existing law to EFTS transactions: payment transactions should be viewed as analogous to check transactions, and credit extensions should be treated as consumer credit card transactions. The latter rule will bring into play the provisions of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

Subsection (c) defines the right of privacy of financial records as between the customer and his financial institution. The basic rule is that there may only be such disclosure as the customer has been previously informed of and given authorization for in the account agreement. In addition, there are some limited exceptions for cases of express consent, verification or completion of transactions, government access permitted under section 5, court orders, and auditors or counsel.

Section 8—Automated Clearing Houses. Subsection (a) deals with the problem of thrift institution access to automated clearing houses (ACHs), by allowing Federal Reserve Banks to furnish services to an ACH only if membership in the ACH is open to all financial institutions. Subsection (b) requires Federal Reserve Banks to charge the full cost of services furnished to an ACH. This would not preclude such Banks from giving appropriate credit to their members for balances in their accounts, as an offset to such charges. Except for such services, subsection (c) prohibits Federal Reserve Banks and Federal Home Loan Banks from getting into the EFT business.

Section 9—Regulations. Subsection (a) authorizes the appropriate federal supervisory agencies to issue regulations, consistent with the provisions of the bill, for the establishment, operation, sharing and use of electronic funds transfer systems by federal financial institutions.

Subsection (b) provides a notice-and-limited-grounds-of-disapproval approach to EFTS establishment. In general, establishment of or participation in an EFT system is to be a matter within the business judgment of the federal financial institution. Agency disapproval would be limited to the deposit-taking function and to other grounds such as a financial condition that rendered imprudent and unsound the proposed investment by the applicant institution.

Section 10—Study. The Federal Reserve Board is authorized to conduct a study of the implications of EFTS development for low-income persons. The study is to be transmitted to the President and the Congress by June 30, 1979.

By Mr. HATCH (for himself, Mr. HATHAWAY, and Mr. WILLIAMS):

S. 2295. A bill to amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics; to the Committee on Human Resources.

Mr. HATCH. Mr. President, on behalf of the Chairman of the Human Resources Committee, Senator WILLIAMS, and the chairman of the Subcommittee on Alcohol and Drug Abuse, Senator HATHAWAY, I am privileged to introduce the Families with Alcoholism Assistance Act of 1977. I am also pleased to announce that Congresswoman MARJORIE HOLT has agreed to introduce an identical bill in the House. It is my hope that because of the urgent situation which these bills address they will receive favorable and expeditious processing by both congressional bodies.

Mr. President, the effects of alcoholism on a family are devastating. This assertion is not my opinion, it is a fact. Recently the Alcohol and Drug Abuse Subcommittee, of which I am the ranking minority member, held a hearing in Salt Lake City where the debilitating effects of alcoholism on the family unit were amply and vividly demonstrated. I want to make it clear that we are talking about a crisis in our society which exists in every community regardless of size or locale—which in many circumstances is monumental and incalculable. Therefore, it is appropriate and necessary for the Federal Government to help to treat alcoholism as a family illness and a social disorder if we are to help the alcoholic and the other victims of alcoholism. This bill is a step in this direction, and I will explain its rationale later in my remarks.

The magnitude of family problems associated with alcoholism is immense. The overwhelming majority of persons affected by alcoholism do not have a drinking problem, per se. But when alcoholism strikes a family member, the alcoholic is not the sole victim. It is undeniably a family affair. A minimum of four other persons are directly affected; that is, husbands, wives, children, et cetera, and countless others are indirectly touched. Its devastating nature reaches into schools, industry, family courts, criminal courts, hospitals, and many other segments of our society who now cry out for some Federal Government leadership in an area where it can show initiative and expertise.

To give my colleagues some dimension on this problem let me cite some current research data. New research indicates that—

More than 28 million children of alcoholic parents are affected by parental alcoholism.

At least half of the juvenile delinquents have family members with drinking problems.

Almost 50 percent of all divorce cases show excessive use of alcohol as a major causative factor.

A correlation exists between battered wives, child neglect and abuse, and alcohol abuse.

But these statistics, as disturbing as they are, do not describe the human tragedy which other victims experience. As Virginia Grady, a staff assistant at the U.S. Postal Service's program for alcoholic recovery has so aptly stated:

> The family who is so affected progresses through all stages in its emotional disturbance. It continues its progression marked by constant and consistent disturbances of plans, emotions and routines of living. The only dependable aspect of family life seems to be the unpredictability of the alcoholic.

As the progression continues, life for the family unit breaks down from the strain. Physical or emotional death may also occur separating the family members. Indeed, alcoholism is a family disease.

Mrs. Grady's assessment tends to support the testimony given in Salt Lake City on what alcohol does to families. Dr. LeClair Bissell, chief of the Smithers Alcoholism Treatment and Training Center of the Roosevelt Hospital in Manhattan, spoke of the wealthy man in New York who started a prolonged drinking bout, left his car on the street and awakened a few days later in a strange hotel. The police had towed his car away, but he reclaimed it without difficulty and later joked about the episode. A college student did much the same thing. He began drinking on a Friday and found himself in another city the following Tuesday. He rushed back to his apartment where his dog was still alive but had been 4 days without food or water. A middle-aged man received a head injury while drunk. His wallet and identification were stolen before he was found and hospitalized. The combined effect of his injury and a severe alcohol withdrawal reaction prevented his identification for several days. The paralyzed and dependent parent with whom he lived did not survive.

And then there was the 18-month-old child who had been thought to be retarded since she had never spoken. She sat in a high chair next to a table on which her divorced and alcoholic mother had placed a freshly opened beer can. The child tried to push the can away and said, "Mommy, no!" her first words. (That particular mother, now many years sober in AA, says that this was the event that stopped her drinking.)

Another baby who really is retarded was seen recently by her pediatrician. During pregnancy neither her mother nor the obstetrician, who later delivered her, knew that heavy drinking during pregnancy could deform the developing fetus. For this baby the knowledge is too late. Even had it been available it is probable that the doctor involved has never been taught how to deal with alcoholism effectively. He might well have informed, warned, and scolded but he might not have known what else to do.

An overweight 11-year-old boy is inattentive and drowsy at school. His facial development is also suggestive of the kind of birth defect associated with heavy maternal drinking during pregnancy. His present situation is that he stays up all night with an alcoholic stepfather who, if not distracted and cajoled while drinking, is prone to attack the boy's mother and younger sister. At night the boy keeps vigil. During the day he eats compulsively and sleeps when and wherever he can.

A solemn 13-year-old reports that the reason his parents have moved from one house to another every 2 or 3 years was that his mother usually drank less when kept busy decorating a series of new homes. That his own attempts at establishing friendships or carving out a place for himself at school were repeatedly disrupted seemed of little concern to this family. Since simple changes of geography or taking on a hobby do not arrest alcoholism for long, the attempted solution did not work. The drinking continued. Meanwhile, the combination of constant moves and the mother's unpredictable behavior throughout his childhood have left this boy old beyond his years.

These glimpses at the personal problems faced by other alcohol victims is repeated by the thousands throughout our society. It is my judgment that the Federal Government must show an initiative to alleviate these problems. My bill fills that goal by creating a statutory priority within the National Institute on Alcohol Abuse and Alcoholism for programs which address the needs of families of alcoholics. It is similar in approach to the actions taken by the Senate last year when we mandated that priority be given to programs for women and youth within the existing administrative structure of NIAAA.

It is my hope that this approach, embodied in my legislative proposal, will go a long way to try to help the family affected by an alcoholic situation get well for its own sake, and, in turn, to help the alcoholic recover from this dread disease.

I ask unanimous consent that the text of the bill be printed in full for the information of my colleagues.

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

S. 2295

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 "Families with Alcoholism Assistance Act of 1977."

SEC. 2. Subsection (a) of Section 2 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 is amended as follows:

(1) by striking out "and" at the end of section (5);

(2) by adding after subsection (5) the following new subsection (a)(6):

"(6) alcohol abuse has a substantial impact on the families of alcohol abusers and alcoholics; and"; and

(3) by redesignating subsection (6) as subsection (7).

SEC. 3. Subsection 303(a)(4)(B) of such Act is amended to read as follows:

"(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of 18 and for education, counseling and treatment of the families of alcohol abusers and alcoholics and provide assurance that programs within the State will be designed to meet such need;"

SEC. 4. Section 311(a) is amended as follows:

(1) by adding after subsection (2) the following new subsection (3):

"(3) to provide education, counseling and treatment for the families of alcohol abusers and alcoholics"; and

(2) by redesignating subsection (3) as subsection (4);

(3) by redesignating subsection (4) as subsection (5);

(4) by amending subsection (5) (as redesignated) by adding at the end thereof: "and for the benefit of the families of alcohol abusers and alcoholics,".

SEC. 5. Section 501(a) is amended by adding at the end thereof:

"Where appropriate, special emphasis shall be placed on the impact of alcohol abuse and alcoholism on the family.".

Mr. HATHAWAY. Mr. President, as chairman of the Subcommittee on Alcoholism and Drug Abuse, I am pleased to join with my distinguished colleague Senator HATCH in introducing the Families With Alcoholism Assistance Act of 1977. Mr. HATCH has taken a deep interest in the work of the subcommittee, and this bill is a reflection of that concern. He is dedicated, committed and, indeed, a welcome voice on the subcommittee.

The Families With Alcoholism Assistance Act of 1977 amends the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics. Specifically, it requires the States to identify the need for education, counseling, and treatment of these families and provide assurances that this need will be met. In addition, it authorizes Federal assistance for projects to provide education, counseling, and treatment for families of alcoholics. It also encourages research on the impact of alcohol abuse and alcoholism on the family.

That an emphasis on alcoholism and the family is warranted became clear this summer when the subcommittee held hearings on this issue in Salt Lake City. At that time witnesses outlined the widespread detrimental effects of alcoholism on the family unit and its individual members. For every alcoholic, an additional four people are affected. These are the "other victims" of alcoholism, and there are some 40 million in our country. Alcoholism is a contributing factor to our high divorce rate, to the physical and sexual abuse of children, to the incidences of battered spouses, and to the number of runaway children. At least 50 percent of juvenile delinquents have family members with drinking problems. Children of alcoholics—estimated as high as 28 million—run a high risk of becoming alcoholics themselves. And children of alcoholic mothers who drink during pregnancy may be deformed or mentally retarded. The picture is not very pretty.

While alcoholism can indeed have a detrimental effect on the family and its members, the family can be a strong positive factor in the treatment and rehabilitation of the alcoholic. At the hearings, witnesses emphasized the importance of the family in the recovery of the alcoholic. With family involvement, the road back is much less difficult. But to assist in the recovery of a loved one, families first need to know what alcoholism really is and where help can be found. Information must be made available; educational and counseling services are essential.

On the basis of the hearings in Utah, we concluded that a greater Federal commitment to addressing the problem of alcoholism and the family is imperative. Senator HATCH has given life to that

commitment. I shall look forward to supporting this measure throughout the legislative process.

By Mr. JOHNSTON (for himself and Mr. NELSON):

S. 2296. A bill to amend the Small Business Act and the Small Business Investment Act to create a Bureau of Minority Business and Economic Development, and for other purposes; to the Select Committee on Small Business.

Mr. JOHNSTON. Mr. President, I am pleased to introduce today along with the distinguished chairman of the Select Committee on Small Business, Mr. GAYLORD NELSON, a bill to establish a Bureau of Minority Business and Economic Development within the Small Business Administration.

The bill does not differ in its overall purpose from my original bill. It provides statutory underpinning for minority business enterprise development and consolidates minority business programing within an agency with clout. I have no doubt that the Bureau will be an aggressive advocate for minority business development.

I believe that my distinguished colleagues in the Senate recognize that there is an immediate need to bring the many diverse elements of the Federal effort to assist minority businesses into a single coordinated whole. Lack of sound programing and effective coordination between agencies have greatly hampered the Federal effort. As early as 1971, the report of the President's Advisory Council on Minority Business Enterprise, "Minority Enterprise and Expanded Ownership: Blueprint for the 70's," concluded:

A serious problem with all programs designed to assist minority enterprise has been lack of an effective mechanism between suppliers of resources (Federal agencies and private sector) and the demanders of resources, i.e., the minority entrepreneurs and community groups.

In recommending that a single agency be established to assure a comprehensive Federal program, the Council further concluded that the delivery system "must—be capable of providing a one-stop—service where the individual entrepreneurs can receive a total package without the necessity of going through a series of—officials to put components together."

In "The Study of Small Business," reported by the Office of Advocacy of the U.S. Small Business Administration on June 3, 1977, the persistent structural problems of minority small business programing was summarized as follows:

The existence of a multiplicity of small business assistance programs for the disadvantaged leaves people confused. Too many do not know where to start or that a local Business Development Organization, SBA and OMBE are all part of the Federal assistance loop.

A principal recommendation of this report was that "combination of all small business assistance and economic development in one agency should be given serious consideration in the course of executive branch reorganization by the Congress and/or the President."

Mr. President, this bill brings about sound programing and effective coordination of minority business development efforts. It also provides an effective means of insuring equitable and viable participation by American minority businesses in the national economy. After thoroughly reassessing my original legislative proposal, I have come to the conclusion that the logical statutory agency to assume management of a minority business development program is the Small Business Administration. This agency already has established authorities, responsibilities, and procedures to resolve financial, management, technical, and marketing problems that minority small businesses encounter. I am very happy to have the chairman of the Senate Select Committee on Small Business as coauthor of this bill. He has enthusiastically acknowledged the logic of locating the Bureau within the Small Business Administration.

Bureau of Minority Business and Economic Development: The bill establishes a Bureau of Minority Business and Economic Development in the Small Business Administration to be headed by a Director of Minority Business and Economic Development. The Bureau will coordinate the plans, programs, and operations of the Federal Government that affect minority small business development. The Bureau will also promote the mobilization of non-Federal resources in its efforts. The Bureau is directed to provide such nonfinancial resources as deemed necessary to assure the continued viability of minority small business concerns and to report the causes of success or failure of minority small businesses assisted by the Bureau. All Federal departments and agencies are required to provide information and assistance as needed to the Bureau.

Procurement assistance: Under section 8 of the Small Business Act of 1953, the Small Business Administration is authorized to act as prime sponsor to provide other departments and agencies of Government with goods and services which it may then subcontract to qualified small businesses. This bill requires the Director of the Bureau of Minority Business and Economic Development to designate an additional individual in the national, regional, or other office of the Small Business Administration with responsibility for administering programs authorized by section 8. These additional individuals will utilize programs authorized by section 8 primarily to promote minority small businesses.

Financing and credit: Inability to obtain adequate financing to sustain a business is one of the most pressing problems facing minority small businesspersons. In 1972, Congress amended the Small Business Investment Act of 1958 by adding section 301(d) which specifically authorized a small business investment program to be directed to all socially or economically disadvantaged persons. In an appraisal of this program, published in 1975, the General Accounting Office included the following criticisms:

Better management information could result if improvements were made in the reporting system for monitoring 301(d) investment company activities.

As the Advocate of the small businessman, the Small Business Administration needs to be more directly concerned with the practices of these companies in their continuing effort of providing equity financing.

The bill creates the position of Deputy Associate Administrator for Minority Business and Economic Development in the SBA Division of Finance and Investment. The Deputy Associate Administrator will be responsible for reviewing, studying, and improving the flow of financial resources to minority small business concerns.

Mr. President, I would like to repeat some of the statements I made earlier this year when I reintroduced my original bill. Minority business development still remains one of the most significant challenges in the area of equal opportunity in this country. Congress should make every practical effort to make workable and viable the promises of the American Constitution. It took the first century of this Nation's life to end slavery. It took the next century to make the promises of the Constitution real by enacting laws on the statute books. We must now ripen those promises stated in law into opportunities within our free enterprise system to provide for equitable participation by those who have hitherto been denied that opportunity.

By Mr. CANNON (for himself, Mr. MCCLURE, Mr. WALLOP, Mr. LAXALT, Mr. GOLDWATER, Mr. DOMENICI, Mr. GARN, Mr. HANSEN, and Mr. HATCH):

S. 2297. A bill to amend Public Law 94-579; to the Committee on Energy and Natural Resources.

Mr. CANNON. Mr. President, I introduce for myself and several of my western colleagues, a bill to direct the Secretaries of Agriculture and Interior not to implement grazing fees for the 1978 grazing year.

This moratorium has become necessary in light of the controversy created by the grazing fee formula adopted by the Secretaries in their recent report. The formula adopted is in direct conflict with directives of the Congress in the Federal Land Policy and Management Act and is opposed by virtually every agriculture and ranching organization in the country. Section 401(a) of the act directs that a study be conducted for the purpose of determining an equitable fee formula, taking into consideration the costs of production normally associated with domestic livestock grazing, differences in forage values, and other factors as may relate to the reasonableness of such fees. The formula recommended by the Secretaries ignores these factors and concentrates exclusively on the Private Grazing Land Lease Rate Index for determining a fair market value. In adopting this formula the Secretaries overlooked an earlier interdepartmental technical committee report recommending a formula using cost of production factors sought by the industry. The technical committee formula would have reflected long run trends in grazing values while also accounting for short run in-

stabilities in livestock prices or cost of production increases. It is a fair and effective proposal and is supported by the industry.

I hope this moratorium will be approved early next year to give the Senate time to review a statutory formula which appears the only way to assure that congressional direction is followed.

By Mr. MORGAN (for himself and Mr. HUMPHREY):

S. 2298. A bill to authorize the Secretary of Agriculture to carry out a pilot program to provide mortgage credit for low and moderate income families, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

Mr. MORGAN. Mr. President, I am introducing today the "Home Ownership Program Act of 1977." I am honored that my good friend and colleague, the distinguished Senator from Minnesota, Mr. HUMPHREY, is joining with me in sponsoring this legislation.

The purpose of this bill is to help make home ownership a reality for a broader segment of our citizenry who cannot presently achieve the goal of owning their own home, and also to stimulate the economy by causing the home construction industry and related trades and industry to become more active through an accelerated home building program.

As a member of the Committee on Banking, Housing, and Urban Affairs, and as chairman of the Rural Housing Subcommittee of that committee I have become increasingly concerned about the growing numbers of people—in particular young people—who are unable through no fault of their own to purchase their own home. Skyrocketing housing costs, coupled with the inflation of the last several years, are pushing the American dream of home ownership further and further out of the reach of increasing numbers of people. Those hardest hit are young people, young couples, who have never owned a home, and are attempting to start their careers and start their families. I believe we need to do more to make home ownership a possibility for these kinds of people of moderate means.

I believe that important social benefits accrue when as many people as possible are able to own their own home. The achievement of home ownership encourages people to become productive, contributing citizens. These habits of stability, responsibility, and sound financial planning based on hard work pay important social dividends to our country long after any initial financial obligation has been satisfied.

The program I am proposing today is an experimental one. It will use an existing agency, the Farmers Home Administration, to conduct a pilot program in a number of counties or States to be selected by the Secretary of Agriculture. The Secretary would designate financial institutions, such as savings and loans, credit unions, or other mortgage lenders to participate in the program. Credit would be extended to those participating financial institutions at a rate of 4 percent yearly to enable them to make mortgage loans under this provision to low- and moderate-income families residing in their service area. Participating institutions would be allowed to make these loans at a rate of 6 percent. Those couples or families eligible to participate are those whose incomes are between 80 and 120 percent of the median income for the area, and who are seeking assistance to finance their first home purchase. I believe that helping young couples get over the seemingly insurmountable hurdle of first homeownership will have important social ramifications. This is particularly true in rural area where there is a general shortage of mortgage credit available.

I believe this bill can be an important point for further discussion as the Rural Housing Subcommittee looks forward to the 2d session of the 95th Congress. During this 1st session our newly created subcommittee held hearings in Raleigh, N.C., in Salt Lake City, and here in Washington. The subcommittee was able to influence the course of the Housing and Community Development Act of 1977, which has become Public Law 95–128. That law contains a number of provisions of great importance for rural Americans, particularly the rural poor. But much more remains to be done. I hope the Home Ownership Program Act of 1977 can be an important catalyst for broadening our discussions of housing needs, and for prompting us to examine more carefully the difficulties of the increasing numbers of people unable to afford a home.

I ask unanimous consent that the text of this legislation be printed in the RECORD at the conclusion of these remarks.

S. 2298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Home Ownership Program Act of 1977".

STATEMENT OF PURPOSE

SEC. 2. The purposes of this Act are—

(1) to help make home ownership a reality for a broader segment of our citizenry who cannot presently achieve this goal; and

(2) to stimulate the economy by causing the home construction industry and all related trades and industries to become more active through an accelerated home building program.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Secretary" means the Secretary of Agriculture;

(2) "participating financial institution" means any savings and loan association, credit union, or other mortgage lender approved by the Secretary for participation in the program authorized by this Act; and

(3) "low and moderate income families" means families whose incomes are not less than 80 percent nor more than 120 percent of the median income for the area, and who are seeking assistance under this Act to finance their first home purchase, as determined by the Secretary.

PROGRAM AUTHORITY

SEC. 4. (a) The Secretary of Agriculture, acting through the Farmers Home Administration, shall carry out a pilot program in a number of counties or States selected by the Secretary. The purpose of the program shall be to extend credit to participating financial institutions at a rate of interest of 4 per centum per annum, to enable such institutions to make mortgage loans under this Act to low and moderate income families residing in the service area of such institutions at interest rates of 6 per centum per annum. Any amount of credit made available to a participating financial institution may be used by such institution as a revolving fund for additional loans in accordance with rules and regulations of the Secretary.

(b) The Secretary is authorized to prescribe such rules and regulations as may be necessary to carry out his functions under this Act, to employ and fix the compensation of such personnel as may be necessary, and to enter into contracts and take such other action as may be necessary or appropriate in carrying out the provisions of this Act.

LIMITATIONS

SEC. 5. The Secretary shall prescribe for each participating financial institution maximum loan amounts and maturities and maximum purchase prices, taking into account prevailing wages and housing costs in the service area of such institution. Except as specifically provided in this Act, each participating financial institution shall retain all authority with respect to the approval and servicing of mortgage loans under this Act.

ELIGIBILITY

SEC. 6. To be eligible for a loan under this Act, a family shall—

(1) make a commitment with the participating financial institution to pay annually in monthly installments an amount equal to 25 per centum of the family's gross income toward the payment of principal, interest, taxes, and insurance premiums attributable to the mortgage and to the property securing the mortgage; and

(2) have an annual gross income 25 percent of which is sufficient to cover the charges for interest, taxes, and insurance premiums during the first year of the loan for which application is being made.

ANNUAL REVIEW AND ADJUSTMENTS

SEC. 7. On the anniversary of any mortgage loan under this Act, the family which executed the mortgage shall certify to the participating financial institution its current annual gross rate of income. Upon the receipt of such information, the participating financial institution shall make such adjustment in the amount of monthly payments, the maturity of the mortgage loan, and in such other obligations as may be appropriate to meet the 25 per centum requirement of section 6(1).

AUTHORIZATION

SEC. 8. (a) There are authorized to be appropriated to the Secretary not to exceed $500,000 to cover the initial expenses of the Secretary under this Act.

(b)(1) Upon the request of the Secretary, the Secretary of the Treasury shall deposit in a special account such sums as may be necessary to provide capital to carry out the provisions of this Act. Such account shall be available as a revolving fund, to the extent provided in an appropriation Act, to make additional extensions of credit to participating financial institutions under this Act and shall be credited with repayments of extensions of credit made to financial institutions.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) The operating expenses of the Secretary under this Act, except for the amount provided under subsection (a), shall be paid out of the net revenues received.

ANNUAL REPORTS

SEC. 9. The Secretary shall prepare and transmit to the President and the Congress an annual report for each year of the pilot program authorized by this Act. Each such

report shall contain the Secretary's analysis of the effectiveness of the pilot program, and his recommendations for legislation or additional authority.

EXPIRATION

SEC. 10. No credit may be extended under this Act after the expiration of 5 years after the date of enactment of this Act.

By Mr. BAYH (for himself, Mr. HUMPHREY, Mr. KENNEDY, Mr. BROOKE, Mr. ABOUREZK, Mr. METZENBAUM, Mr. MATHIAS, Mr. JAVITS, and Mr. WILLIAMS):

S. 2300. A bill to extend the Commission on Civil Rights for 5 years, to authorize appropriations for the Commission, to effect certain technical changes to comply with other changes in the law, and for other purposes; to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing a bill to extend the existence of the U.S. Commission on Civil Rights for an additional 5 years. The U.S. Commission on Civil Rights was formed as a temporary independent bipartisan agency in 1957 for the purpose of studying and collecting information about or appraising any legal developments or laws that may constitute a denial of the equal protection of the laws because of a person's sex, race, color, religion, or national origin, or in the administration of justice.

I know that many Senators may wonder why this bill is necessary; why a Commission so well-known and respected needs to be renewed every so often. Did the Commission foresee the current move toward so-called sunset legislation and become its harbinger? The reason, I am afraid, is far more mundane, and seems rather outdated now. Many Members of the Congress in 1957 thought the establishment of a Commission to study civil rights was too radical a measure to pass without some continuing congressional control. Thus, the Commission was required to come to the Congress every few years to justify its existence and defend its record. Luckily, for the American people, the Commission has regularly been able to do so. In the 20 years since its founding, it has done more than any other agency in the Government to identify and suggest solutions to various civil rights violations.

The Commission has been our official conscience; the agency that has pointed out the less seemly aspects of American life and asked us to do our duty to right the wrongs that centuries of violence, injustice, and neglect caused. I am proud to say that the Senate, the Congress, and the President listened to this voice from within its ranks, and responded by ending many of those practices that relegated thousands of our fellow Americans to second class citizenship.

However, a few Senators have expressed the opinion, both here on the floor and elsewhere in public, that the job is finished. They say we have identified all the wrongs and all the injustices, righted them, and sent bigotry and its fellows to their resting places in the trash heap of history. I wish I could say this were so. I then could agree with the critics of the Commission and say there is no more need for anyone to point out segregation in the schools and in housing, discrimination against women in the insurance industry and in employment, cultural discrimination against Asian Americans or Spanish-speaking citizens, the lack of equal opportunity for the aged and handicapped, the continuing presence of racism, or any of the other discriminatory practices that are obvious to those who experience them, but not apparent to many of us who have the power to remedy those wrongs. Those evils, unfortunately, are still with us, and we still need an agency whose sole function is to identify them so we are reminded again to fight and end them.

The Civil Rights Commission is coming to the Congress to seek, simply, another 5-year term. It is asking to continue as the official window of the Congress and the President, showing us not only what is wrong with America, but also what can be done about it. Its job is one that must be done if our country is not to sink into the abyss of hatred, despair, and self-destructiveness we see elsewhere in the world.

Mr. President, what I am saying is that this country still faces a serious crisis in providing equal justice, equal opportunity, and equal rights for its minorities—in fact, for all Americans. The Commission noted this continuing crisis in a report, entitled "The Unfinished Business: Twenty Years Later," published just last month for the State advisory groups. This report noted, "the unfinished business of achieving compliance with civil rights laws remains a formidable task for all America's citizens, despite visible progress in certain critical areas." The report went on to say one reason for this was, "more subtle forms of discrimination continue to materialize, requiring ever more stringent enforcement to insure compliance with the law." I hope all Senators will read this report and the Commission's other excellent studies published over the last 5 years. I am sure reading them especially "Twenty Years Later," will convince all Members of this body that the Commission is a vital and necessary agency whose work, efforts not duplicated elsewhere in the Government, has moved us toward a more equitable society. It is only by this type of self-examination that we can reach a solution to the ills that plague our society. It surely will not come by ignoring the plight of America's minorities.

The Commission has been doing its job for a long time. The bill I am introducing today includes both technical and substantive changes in its charter, the Civil Rights Act of 1957. These changes, first, will conform the charter to changes in the law that have occurred since 1957, and, second, will allow the Commission greater latitude in investigating all discriminatory practices. I ask unanimous consent that the bill be included in the RECORD at this point.

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

S. 2300

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 "Civil Rights Commission Act of 1978".

SEC. 2 (a) Section 103(a) of the Civil Rights Act of 1957 (42 U.S.C. 1975b. (a); 71 Stat. 635), is amended by striking out "in accordance with section 5 of the Administrative Expenses Act of 1946, as amended" and inserting in lieu thereof the following: "in accordance with section 5703 of title 5".

(b) Section 103(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975b. (b); 71 Stat. 635) is amended by striking out "in accordance with the provisions of the Travel Expenses Act of 1949, as amended" and inserting in lieu thereof the following: "in accordance with the provision of subchapter I of chapter 57 of title 5".

SEC. 3. (a) Section 104 (a) of the Civil Rights Act of 1957 (42 U.S.C. 1975C. (a); 71 Stat. 635) is amended by striking out "and" at the end of clause (5), by redesignating clause (6) and all references thereto, as clause (7), and by inserting after clause (5) the following new clause:

"(6) study and collect information concerning legal developments constituting a denial of the equal protection of the laws under the Constitution on account of age, or with respect to handicapped individuals as defined by the second sentence of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6); 87 Stat. 361), and appraise the laws and policies of the Federal government with respect to such denials on account of age, or with respect to handicapped individuals as defined by the second sentence of section 7(6) of the Rehabilitation Act of 1973; and".

(b) Section 104(b) of the Civil Rights Act of 1957 (42 U.S.C. 1975c. (b); 71 Stat. 635), is amended by striking out "1978" and inserting in lieu thereof "1983".

SEC. 5. Section 105 (a) of the Civil Rights Act of 1957 (42 U.S.C. 1975d. (a); 71 Stat. 636) is amended by striking out "and who shall receive compensation at a rate, to be fixed by the President, not in excess of $22,500 a year".

SEC. 5. Section 105(d) of the Civil Rights Act of 1957 (42 U.S.C. 1975 (d); 71 Stat. 636) is amended by striking "sections 281, 283, 284, 434, and 1914 of title 18, and section 190 of the Revised Statutes" and inserting in lieu thereof "sections 203 205, 207, 208 and 209 of title 18".

SEC. 6. Section 16 of the Civil Rights Act of 1957 (42 U.S.C. 1975e.; 71 Stat. 636) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 106. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.".

Mr. BAYH. Sections 2, 4, and 5 contain the technical amendments to the act, and sections 3 and 6 the substantive provisions. Section 2 (a) and (b) merely tracks the language and citations that come about as a result of the 1966 codification of title 5 of the United States Code. Section 4 deletes language now in the act concerning the compensation due the Commission's staff director which was superseded by Public Law 89–554 and Public Law 88–426. Section 5 merely amends the citation to the sections of title 18 of the United States Code which were changed by Public Law 87–849.

The substantive sections 3 and 6, do relatively little to change the Commission or its work. Subsection 3(a) adds the authority to study, collect information, and appraise the laws in regard to discrimination on account of age or mental or physical disability; subsection 3 (b) extends the Commission's existence

for an additional 5-year period. Section 6 authorizes those appropriations necessary to carry out the Commission's duties during the extension until the end of fiscal year 1983.

Mr. President, I originally announced on October 23, 1977, that the Subcommittee on the Constitution would hold hearings next week, November 1 and 2, on this bill. Unfortunately, these hearings must be postponed in order to allow the committee to finish its work on S. 1437, the codification of the criminal code. I hope this change of schedule did not inconvenience any Senator or witness who planned to appear before the subcommittee. I will inform the Senate and other interested parties of the new dates so they can make plans to testify when the hearings are rescheduled later this month.

By Mr. HATHAWAY:

S. 2301. A bill to require an immigrant alien to maintain a permanent residence as a condition for entering and remaining in the United States, and for other purposes; to the Committee on the Judiciary.

Mr. HATHAWAY. Mr. President, I am introducing today legislation designed to eliminate a most serious abuse of the Immigration and Nationality Act.

Under that law, foreign citizens admitted for permanent residence in the United States are allowed to make brief visits abroad.

As long as the alien does not stay abroad for more than a year, he or she may return freely to the United States.

Permanent resident aliens are allowed to work freely and without restriction anywhere in the United States. Upon meeting the requirements for it, they may become citizens. This is all as it should be. And in most cases it causes no problems.

But there are cases, Mr. President, where I believe the law is not being carried out in conformity with Congress intentions in such matters.

People from Canada who obtain permanent status in the United States, for example, frequently continue to live their lives as Canadians in Canada but use their permanent status in the United States in order to obtain work here.

This is entirely understandable.

But what the law contemplates in the words "brief visit abroad" have come, in many cases, to describe the daily migration of a Canadian from his job in the States to his home in Canada.

In short, the brief visit abroad has come to include people who hold the right to live here, but do not exercise that right, preferring, instead, to continue to reside in Canada.

But they do choose to exercise a portion of the rights conferred upon them when they obtain permanent resident status. And that portion is the right to hold a job here.

This creates friction in some parts of the United States.

When a person who, in every respect, is a Canadian citizen, living in Canada, driving a car with provincial plates on it, comes to the United States and is admitted lawfully to hold a job, it irritates Americans who are unemployed.

Americans do not enjoy reciprocal rights of this nature if they wish to work in Canada.

Canada—like most countries—is much stricter about admitting people for work than the United States is.

I do not wish to make American citizenship a prerequisite for employment in the United States. One of the strengths of our country is that citizenship is something which one receives if born here and, if an immigrant, is easily enough conferred if one wishes to become a citizen. To force citizenship upon anyone through economic or other inducements would destroy the positive aura that surrounds American citizenship.

But I do wish to give American citizens and the lawful aliens residing here the first crack at American jobs.

For citizens, it is a fundamental expectation that the Government will do its best to promote an environment in which the citizen can work and support himself.

And when we admit aliens, we make a similar commitment. They are our guests. They are a little like distant relatives—an apt simile when one considers the American experience.

But guests or visiting relatives have certain obligations on their part. The duties of the host end, for example, if the guests decide to stay elsewhere.

So what we have are numbers of aliens, admitted to the United States to live and work here. But they only work here. They continue to live abroad in Canada.

I believe that this is wrong for Americans seeking jobs in the United States—and who can obtain no similar privilege in Canada.

My bill, the Immigration and Nationality Act Amendments of 1977, would require an immigrant alien to maintain a permanent residence as a condition for entering and remaining in the United States.

Each immigrant applying for permanent status would be required to swear that he or she intends to establish continuous residence in the United States.

For most immigrants, this will present no difficulty.

Failure to observe these requirements could result in deportation proceedings.

For aliens who currently hold permanent resident status but who commute from Canada, a 1-year grace period is established, at the termination of which they would have to elect either to lose their U.S. job and remain in Canada or move to the United States and retain their employment here.

I ask unanimous consent that the text of my 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. 2301

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 "Immigration and Nationality Act Amendments of 1977".

SEC. 2. Section 101(a) of the Immigration and Nationality Act is amended by amending paragraph (20) to read as follows:

"(20) The term 'lawfully admitted for permanent residence' means the status of an immigrant who—

"(A) has been lawfully accorded the privilege of residing permanently in the United States in accordance with the immigration laws;

"(B) at the time of making an application for an immigrant visa, intends to establish continuous residence in the United States; and

"(C) establishes continuous residence in the United States following his admission into the United States as a permanent resident;

such status not having changed. For purposes of this paragraph, the term 'continuous residence' means the maintenance of an actual, fixed, and permanent place of abode.".

SEC. 3. Section 212(a) of the Immigration and Nationality Act is amended—

(1) by striking out the period at the end of paragraph (32) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraph:

"(33) Any alien who seeks to procure, has sought to procure, or has procured an immigrant visa without any intent to establish continuous residence in the United States, as defined in section 101(a)(20).".

SEC. 4. Section 221(a)(1) of the Immigration and Nationality Act is amended by inserting after "section 222" the following: "(including the statement and oath required by subsection (a)(2) of such section)".

SEC. 5. Section 222(a) of the Immigration and Nationality Act is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by striking out the following: "whether or not he intends to remain in the United States permanently;"; and

(3) by inserting at the end thereof the following new paragraph:

"(2) Each immigrant shall sign a separate statement under oath, at the end of such application that he intends to establish continuous residence in the United States, as defined in section 101(a)(20). The statement of such intent shall be considered a material fact of such application.".

SEC. 6. Section 241(a) of the Immigration and Nationality Act is amended—

(1) by striking out "or" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and by inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(19) was admitted as an immigrant and failed to maintain the immigrant status in which he was admitted or to which he was adjusted pursuant to section 245, or to comply with the conditions of such status.".

SEC. 7. The introductory matter preceding paragraph (1) of section 2(a) of the Immigration and Nationality Act is amended by inserting after "suspension of deportation" the following: "(which application shall include a statement signed by the alien, under oath, that he intends to establish continuous residence in the United States, as defined in section 101(a)(20))".

SEC. 8. Section 245(a)(1) of the Immigration and Nationality Act is amended by inserting after "such adjustment" the following: "(which application shall include a statement signed by the alien, under oath, that he intends to establish continuous residence in the United States, as defined in section 101(a)(20))".

SEC. 9. Not later than one year after the date of enactment of this Act, any alien admitted as an immigrant before the date of enactment of this Act shall be required to—

(1) sign a statement, under oath, that he intends to establish continuous residence in the United States, as defined in section 101 (a) (20) of the Immigration and Nationality Act, as amended by section 2 of this Act; and

(2) thereafter, establish such continuous residence.

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. EAGLETON, Mr. MAGNUSON, Mr. MATHIAS, and Mr. HATCH):

S. 2302. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to the States to reimburse the costs of studies to assess the cost of compliance with section 504 of the Rehabilitation Act of 1973 with respect to educational programs, and to make grants to educational institutions to pay the Federal share of the costs of such compliance, and for other purposes; to the Committee on Human Resources.

Mr. RANDOLPH. Mr. President, I am today introducing a bill, the Rehabilitation Cost Assistance Act of 1977. Mr. STAFFORD, Mr. EAGLETON, Mr. MAGNUSON, Mr. MATHIAS, and Mr. HATCH are cosponsors. The measure would enable States to assess the fiscal impact of section 504 of the Rehabilitation Act of 1973 as it relates to the removal of architectural barriers from educational facilities. This legislation will also authorize the appropriation of funds for the removal of architectural and communications barriers in educational institutions.

On September 26, 1973, the Rehabilitation Act was signed into law. Section 504 of this act states that—

No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

This statement of rights has profound implications for the handicapped citizens of this country as well as for all citizens.

As my colleagues know, regulations to implement section 504 were long delayed. In fact, final regulations were not published until May 4 of this year. These regulations require that programs be accessible to handicapped persons, that construction of new facilities must be barrier-free, and that structural changes must be made when there is no other method to make programs and services accessible. Structural changes must be completed by June 3, 1980, in accordance with a transition plan which must be developed by December 3, 1977.

Particularly, since the publication of the final regulations, there have been concerns expressed about the future of this potentially far-reaching provision—section 504. Consumers and advocates are fearful that section 504 will not achieve its intended purpose; recipients of Federal aid question their ability to summon the fiscal resources to meet their obligation under the law.

Determination of what structural changes need to be made and therefore the cost of such changes remain a perplexing problem for many recipients. Estimates on the cost of achieving accessibility to educational programs vary widely—from $250 million to $7 billion. Initial estimates are frequently much too high; for example, according to Mainstream, Inc., an organization which conducts accessibility surveys, one facility thought that it would have to spend $160,000 to achieve accessibility. Further examination showed that accessibility could be accomplished by spending only $7,800.

This measure would provide funding for States to conduct independent studies on the cost of achieving program accessibility in educational facilities. I stress the word independent since it would be valuable both to the Department of Health, Education, and Welfare as well as to the Congress to have independently researched cost figures in addition to the transition plans that will be developed by the recipients. If this Nation is to meet its commitment to handicapped citizens, there must first be a national effort made in order to assess the cost so that planning to meet that commitment may proceed in a logical, orderly fashion.

This bill, the Rehabilitation Cost Assistance Act of 1977, also authorizes the appropriation of funds to assist educational institutions in the removal of barriers in order to achieve program accessibility in accordance with section 504 of the Rehabilitation Act.

Mr. President, I believe this bill offers a reasonable and logical approach to a perplexing problem facing many of this country's public and private elementary and secondary schools, and public and private institutions of higher education. We would afford the States the opportunity to access the fiscal impact of section 504 on educational programs within the States and then provides institutions operating educational programs the opportunity to seek Federal assistance to remove architectural barriers that have been identified in the State study as being an impediment to program accessibility.

When Congress passed the Rehabilitation Act of 1973, it made a commitment to this country's handicapped citizens that has not been yet fulfilled. It is my hope that this commitment be met; it is my belief that this bill provides a pragmatic approach to fulfilling the promise of section 504 to handicapped persons.

I ask unanimous consent that this bill be printed in the RECORD at the conclusion of my colleagues' remarks.

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

Mr. MATHIAS. Mr. President, I take great pleasure in cosponsoring the Rehabilitation Cost Assistance Act of 1977 with the distinguished Senator from West Virginia (Senator RANDOLPH). This bill helps set the stage for a continuing partnership between the States and the Federal Government toward fulfilling the goals contained in section 504 of the Rehabilitation Act of 1973. The soundings I have taken in the State of Maryland and elsewhere convince me that this bill is urgently needed.

State departments of education and institutions of higher learning are now in the process of developing their compliance plans. Determination of costs and the actual letting of contracts will be the next order of business for most States and institutions. Now is the time for the Federal Government to provide substantive help.

Passage of this legislation is of crucial importance to the education community which has deadlines to meet in conjunction with a number of other regulatory requirements. OSHA requirements, section 504 regulations, energy efficiency, changing enrollment patterns, and inflationary educational costs make it increasingly difficult to administer a sound educational system with a limited budget. It was the intent of Congress to extend the opportunity and rights of the majority to the handicapped without diluting the quality and quantity of services available to all. We must face the fact that carrying out this intent will be costly. But, in the long run, society as a whole will benefit if, by removing impediments, we enable the handicapped to become productive tax-paying members of society. Now it is time for the Congress to take the lead again by helping the educational community respond to the economic challenges inherent in section 504.

I think the problems of Maryland are representative of those faced by other States. The Maryland State Board of Education has an excellent education record. It has vigorously pursued compliance with P.L. 94–142. Nonetheless, the provision of studies money and implementation money will certainly facilitate its endeavor. Institutions of higher education will find compliance more difficult even than the public schools have found it. The public schools at least can benefit from the growing body of information available as a result of the requirements of Public Law 94–142. But, in attempting to estimate the cost of compliance, institutions of higher education can look only to the experience of those few institutions that had the foresight, funds and compassion to act affirmatively for the handicapped before legislative prodding. This bill will be especially useful in helping the higher education community achieve compliance with section 504.

Our bill will provide $15 million to support a State-by-State study to assess the cost of implementing section 504. The bill also authorizes the appropriation of a sum of money to support an 80-percent Federal share of the costs of section 504. It seems to me that these measures provide a reasonable approach to the achievement of the goals in section 504.

Mr. EAGLETON. Mr. President, I am pleased to join with Senator RANDOLPH in sponsoring legislation to determine the cost of effectively implementing the ban on discrimination against the handicapped.

Three long years after enactment of the prohibition, Secretary Califano signed the regulations implementing section 504 of the Rehabilitation Act of

1973. On June 3, 1977, it became HEW policy that all recipients of HEW funds must provide equal access for the handicapped to their services and employment—or lose their Federal funds.

On this basic principle, there must be no turning back. However, in order for the potential embodied in the regulations to substantially improve the everyday lives of millions of handicapped in our schools, colleges and universities, hospitals, nursing homes, and day care centers to be realized, Congress must assist these institutions to meet the ambitious goal it has legislated.

Many questions remain unanswered The regulations require that programs be accessible to the handicapped. Yet no one has clearly defined what accessibility means. David S. Tatel, director of the Office for Civil Rights, has said that—

While a part or percentage of an institution's facilities must be accessible, there is no prescribed number or percentage that is required. The object is to make the programs of an institution accessible, not every classroom or dormitory room.

The lack of specific guidance from the agency issuing the regulations has left many institutions in a quandry. Fearful of a loss of Federal funds and burgeoning lawsuits, they feel compelled to interpret the regulations in a very liberal manner.

A second major question which has not been adequately addressed is that of cost. Who is going to pay for the costs of compliance with the regulations? Estimates of the cost of compliance from schools, colleges, and universities range from $250 million to $7 billion, the bulk of which would be necessary to make structural changes to remove architectural barriers. Although HEW claims that the institutions have vastly inflated their cost estimates, it is clear that no one knows what actual costs will be.

From my dual role as a member of the Senate Subcommittee on the Handicapped and the Senate appropriations subcommittee responsible for funding programs for the handicapped, I believe it is imperative that the Senate take swift action on the bill we are introducing today.

The bill is modest in scope. It authorizes $15 million for grants to the States to conduct an assessment of their cost of bringing their educational programs into compliance with section 504 of the Rehabilitation Act. The States are required to complete their assessment within 120 days, and 60 days thereafter, the Secretary of HEW is required to report to Congress as to the need for Federal support. Further, it would authorize an appropriation of funds to assist educational institutions in the removal of barriers in order to achieve accessibility of programs in accordance with section 504 of the Rehabilitation Act.

Absent such an evaluation and support, Congress will be unable to effectively meet its responsibility to follow through on its requirement that all HEW grantees provide equal opportunity for all handicapped people.

S. 2302

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 "Rehabilitation Cost Assistance Act of 1977".

SEC. 2. The Congress finds that—

(1) section 504 of the Rehabilitation Act of 1973 requires that educational programs be accessible to handicapped persons,

(2) it may be necessary to physically modify existing structures of educational facilities in order to comply with section 504, and

(3) in order to meet the national goal of program accessibility in education as set forth in section 504, it is first necessary to determine the cost of achieving accessibility.

SEC. 3. (a) The Secretary is authorized to make grants to States to reimburse (in whole or in part) the cost of an independent study for each such State designed to assess the cost of complying with the provisions of section 504 of the Rehabilitation Act of 1973 with respect to public and private educational programs carried out in that State.

(b) No grant may be made under the provisions of this section unless—

(1) each State desiring to receive a grant under this section makes an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require; and

(2) each State provides assurances that the study for which reimbursement is sought under this section will be completed within 120 days after the date of enactment of this Act.

SEC. 4. Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a report on the cost of complying with the provisions of section 504 of the Rehabilitation Act of 1973 with respect to educational programs, based upon the information developed pursuant to section 3 of this Act.

SEC. 5. (a) The Secretary is authorized to make grants to educational institutions to pay the Federal share of the cost of assisting such institutions in removing architectural barriers in order to comply with the provisions of section 504 of the Rehabilitation Act of 1973.

(b) No grant may be made under the provisions of this section unless—

(1) each educational institution desiring to receive a grant under this section makes an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require;

(2) such educational institution provides assurances that the project for which the application is made meets the requirements of section 504 of the Rehabilitation Act of 1973, and provides for the removal of architectural barriers in a timely and economic manner in accordance with such section;

(3) such educational institution provides assurances that the title to the site on which the project for which assistance is sought is in accordance with the regulations of the Commissioner, and that the educational institution will use the facility to which the project relates for educational purposes; and

(4) such educational institution provides assurances that Federal funds received under this section will be used solely for the Federal share of the cost of removing barriers described in the application, and that such institution will pay from non-Federal sources the remaining cost of carrying out the provisions of the application.

(c) The Secretary shall not approve any application under the provisions of this section unless—

(1) he determines that the requirements of subsection (b) are met; and

(2) he considers the appropriate State study conducted pursuant to section 3 of this Act or a similar State study relating to the cost of making facilities of educational institutions accessible to handicapped individuals.

(d) The Federal share for the purpose of this section shall be 80 percent in each fiscal year.

SEC. 6. (a) Unless otherwise specifically provided by this Act, the provisions of section 434 (a) and 435 of the General Education Provisions Act shall apply to the program authorized by this Act.

(b) Notwithstanding any other provision of this Act no payment for reimbursement under this Act to any State shall exceed 12 per centum of the aggregate payments to all States under this Act.

SEC. 7. For the purpose of this Act the term—

(1) "Commissioner" means the Commissioner of Education;

(2) "education institution" means—

(A) any local educational agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965,

(B) any State educational agency as defined in section 801(k) of such Act,

(C) any other public or private elementary or secondary school receiving Federal financial assistance.

(D) any institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965,

(E) any institution of higher education as defined in section 491(b) of such Act,

(F) any eligible institution as defined in section 435 of such Act, and

(G) any other similar institution receiving Federal financial assistance;

(3) "Secretary" means the Secretary of Health, Education, and Welfare; and

(4) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the government of the Northern Mariana Islands.

SEC. 8. (a) There are authorized to be appropriated such sums not to exceed $15,000,000 to carry out the provisions of section 3 of this Act.

(b) There are authorized to be appropriated such sums as may be necessary for each fiscal year prior to October 1, 1980 to carry out the provisions of section 5 of this Act.

By Mr. MELCHER:

S. 2303. A bill to declare a national policy on conservation, development and utilization of natural resources, assurance of resources for economic growth and national security, and for other purposes; to the Committee on Governmental Affairs.

RESOURCES FOR GROWTH AND FREEDOM

Mr. MELCHER. Mr. President, I have just introduced a bill to declare a national policy on conservation, development, and utilization of our natural resources, to assure resources for economic growth and national security, to create a White House Council on Resources and Conservation and to authorize a joint committee of the Congress on resources and conservation to assure attainment of our necessary growth and security goals.

Twenty-five years ago, in 1952, William S. Paley and a panel of distinguished Americans known as the Paley Commission, or the President's Materials Policy Commission, issued a report entitled "Resources for Freedom." They recommended that a single agency of Government—not an operating agency but an oversight agency preferably in the Executive Office—be established or designated to maintain an inventory of our resources and materials situation and

programs, and to alert us annually to shortages, recommending policies and programs to assure adequate resources of all kinds for our growth and security, both in the short and long term.

The Commission recommended that the agency:

. . . collect in one place the facts, analyses, and program plans of other agencies on materials and energy problems and related technological and special security problems; to evaluate materials programs and policies in all these fields; to recommend appropriate action for the guidance of the President, the Congress, and the Executive agencies; and to report annually to the President on the long-term outlook for materials with emphasis on significant new problems that emerge, major changes in outlook, and modifications of policy or program that appear necessary.

Interestingly, the Commission was much concerned about energy resources; they pointed out that coal was our most abundant resource, that there were great possibilities of developing economies in its use and converting it to electric energy and liquid fuels, and they recommended:

That the Federal Government, acting through the Bureau of Mines, with the cooperation of private industry, labor, and private research organization, undertake a thorough appraisal of present research and development work relating to coal; and the formulation of a strong program to advance coal technology to be carried out by a combination of private and public effort.

The Paley Commission was concerned, too, with other scarce minerals, forest products, agricultural resources—everything our Nation requires to assure growth and security.

As we learned last year during enactment of the new Forest Management Act, despite growing pressure on our forests, we have millions of acres of forest lands idle, cut over, overgrown with underbrush, and in need of reforestation—a backlog of $1.5 to $2 billion in work desperately needed to keep our national forest lands fully productive and capable of meeting our growing requirement for timber products from 15 to 50 years from now.

A private research agency, Resources for the Future, grew out of the Paley Commission activity. Some of the leaders in the Resources for Freedom movement believed that it was going to monitor adoption of the Commission's recommendations and focus attention on the adoption and maintenance of programs that would assure our country adequate resources for growth and security. While that institution has stimulated a good deal of scholarly research, brochures, papers, and books on resources subjects, I am not aware that it has functioned as a Paul Revere in the national resources and materials policy and program development field.

One of my distinguished predecessors in this body—Senator James E. Murray, of Montana, who was concerned about continuing neglect of resources and conservation policy, proposed in 1959 that we establish a Council of Resources and Conservation Advisers. He was joined by 29 cosponsors.

There were hearings on the bill in 1960. Presidential candidate John F. Kennedy advocated the creation of the council in his successful Presidential campaign. Senator Claire Engle of California and many coauthors reintroduced Senator Murray's measure in 1961.

Unfortunately, the Bureau of the Budget, which was then empire building, convinced President-elect John F. Kennedy that it should be his exclusive staff agency and that resources and conservation surveillance and policymaking could be entrusted to it. The Kennedy administration, despite the candidate's commitments, endorsed the purpose of the bill but asked for time to get organized to do the job without creation of the new Council.

The job was never done.

In 1969, when our environmental concerns were growing, we used the pattern of the Resources and Conservation Act to create the Environmental Quality Council in the White House. Out of that movement, with the Council supplying a considerable part of the stimulus, has come a surge of environmental measures, most of them much-needed but, unfortunately with a tilt toward limitation or obstruction of growth. No one has been assigned the responsibility for monitoring and proposing ways to meet our needs and growth requirements.

There are flashes of concern about what is happening to our agricultural land from land use planners. When timber prices skyrocket, there is momentary concern about adequacy of our timber resources. During processing of the Timber Management Act last year we authorized funds for an 8-year "catch-up" on reforestation and maximizing forest productivity but that was not followed up by a budget request.

The Bureau of Mines reports occasionally on our dependence on imports for minerals, using Bureau of Census data, but I am not aware of any careful planning or program to assure that we don't get caught by an Arabian blitzkreig on some of them. We have certain reserves, but I am not aware, and no one around the Congress of whom I inquire, appears to know what they amount to in terms of 1 year, 2 years', or several years' supply.

We are 100 percent dependent on foreign suppliers for columbium, used to temper steel to withstand jet engine temperatures. Russia is our principal supplier of chromium, of which we get 89 percent from abroad. We are 90 percent dependent on imports for our bauxite to make aluminum. We also get 22 percent of our aluminum itself from Canada.

I ask unanimous consent to insert at this point in my remarks a table of U.S. net import reliance of selected minerals and metals as a percent of consumption in 1976, as reported by the Bureau of Mines:

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

MINERAL OR METAL; PERCENT RELIANCE; MAJOR FOREIGN SOURCES, (1972–1975)

Columbium, 100, Brazil, Thailand, Nigeria.
Mica (sheet), 100, India, Brazil, Malagsy.
Strontium, 100, Mexico, U.K., Spain.
Cobalt, 98, Zaire, Belgium-Luxembourg, Finland, Norway.
Manganese. 98, Brazil, Gabon, Australia, South Africa.
Tantalum, 94, Thailand, Canada, Australia, Brazil.
Titanium (rutile), 93, Australia, India.
Platinum Group Metals, 92, U.K., U.S.S.R., South Africa.
Bauxite & Alumina, 90, Jamaica, Surinam, Guinea, Australia.
Chromium, 89, U.S.S.R., South Africa, Philippines, Turkey.
Tin, 85, Malaysia, Thailand, Bolvia.
Asbestos, 83, Canada, South Africa.
Fluorine, 79, Mexico, Spain, Italy.
Nickel, 71, Canada, Norway, New Caledonia.
Gold, 70, Canada, Switzerland, U.S.S.R.
Mercury, 65, Canada, Algeria, Mexico, Spain.
Cadmium, 64, Canada, Mexico, Australia, Belgium-Luxembourg.
Potassium, 62, Canada.
Antimony, 61, South Africa, P.R. China, Bolivia, Mexico.
Selenium, 59, Canada, Japan, Mexico.
Tungsten, 59, Canada, Bolivia, Peru, Thailand.
Zinc, 59, Canada, Mexico, Australia, Peru, Honduras.
Tellurium, 57, Peru, Canada.
Silver, 47, Canada, Mexico, Peru.
Petroleum (inc. Nat. Gas liq.), 41, Canada, Venezuela, Nigeria, Saudi Arabia.
Barium, 38, Ireland, Peru, Mexico.
Gypsum, 38, Canada, Mexico, Jamaica.
Titanium (ilmenite), 37, Canada, Australia.
Iron Ore, 35, Canada, Venezuela, Brazil.
Iron & Steel Scrap (—22)
Vanadium, 31, South Africa, Chile, U.S.S.R.
Aluminum, 22, Canada.
Copper, 15, Canada, Peru, Chile, South Africa.
Lead, 15, Canada, Peru, Australia, Mexico.
Steel Mill Products, 10, Japan, Europe, Canada.
Salt, 7, Mexico, Canada, Bahamas, Chile.
Natural Gas, 4, Canada.
Cement, 3, Canada, Bahamas, Norway, U.K.
Pumice, 2, Greece, Italy.

Mr. MELCHER. I have just learned that the White House is planning a conference in late January and early February on balanced national growth and economic development with several major themes including strengthening local economies; people and jobs; the government and budget; the geography of growth; and streamlining government. It is a timely conference. I wish that the agenda I have seen gave more attention to resource aspects of the growth problem, but perhaps it is more adequately covered in working papers than in the extremely brief summary I have seen.

However, a one-shot conference on national growth and economic development is not going to do the continuing job that the Paley Commission drew our attention to back in 1952, the continuing job that Senator James Murray and his 29 Senate coauthors envisioned in 1959 and the Sixties, nor the continuing job of reminding and advising us of the immediately urgent and long-term problems in the resources and materials fields with which we should be dealing rather than neglecting.

The Paley Commission report was a one-shot deal. Had we heeded its warnings and followed it up, as the Commission recommended, our energy crisis today might well have been much less severe.

The bill I have introduced today is an adaptation of the Resources and Conservation Act of the late Fifties and Sixties.

It may very well need considerably more modernization than I have given it at this point. I have introduced it in its present form today, however, to stimulate discussion of steps which will help to assure continuing consideration of the adequacy of our resources for national growth and security.

We should have learned something from the energy crisis.

Perhaps the time has come when the sort of agency recommended in 1952 and proposed in 1959 should be adopted.

Some of my concerns about the adequacy of our resources—the long-term adequacy of them—are reflected in a study by Lester R. Brown of the Worldwatch Institute, which, according to press accounts, contends that problems created by dwindling supplies of oil, fish, firewood, and other resources are more dangerous to us than military threats.

I ask unanimous consent to include in the RECORD an article from the Washington Star describing Dr. Brown's study.

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

STUDY CITES NATIONAL DANGERS—NATURE, NOT WEAPONS, CALLED KEY TO SECURITY

(By Henry S. Bradsher)

The concept of national security needs to be redefined to look beyond military threats to problems created by dwindling supplies of oil, fish, firewood, pastures and other resources.

Their decline poses long-term dangers for the security of the whole world that are potentially more serious than military competition. A failure to arrest the deterioration of the earth's fisheries, forests, grasslands and croplands, "threatens . . . the survival of civilization as we know it."

This dire warning comes from a leading thinker on global problems, Lester R. Brown. He heads a Washington nonprofit research organization named Worldwatch Institute.

Brown is a relaxed, affable member of a grim band of doomsayers who try to wake up the world to problems so big and daunting that few people even recognize them—and most of those find it politically easier and intellectually more convenient to ignore than to tackle them.

Not all pessimism, Brown sees some hope. He doubts that the past 25 years' trends toward exhausting the earth's resources will continue unchanged through the last quarter of this century. But the question Brown has raised in a number of Worldwatch studies is whether enough is being done to check the trends.

He fears the answer is no. Others have challenged such gloomy predictions. They argue that something always turns up, whether nuclear energy to replace fossil fuels, or ocean-bed mineral nodules to replace depleted mines, or other products of advancing science.

A new study just issued by Brown says much greater efforts are needed. Six times as much is spent around the world to develop new weapons as goes into developing replacements for declining energy resources, he points out.

"Not only is the old military concept of national security no longer adequate," Brown says, "but it may be diverting attention from more serious problems."

The military approach assumes "that the principal threat to security comes from other nations. But the threats to security may now arise . . . more from the relationship of man to nature . . . National securtiy cannot be maintained unless national economies can be sustained, but, unfortunately, the health of many economies cannot be sustained for much longer without major adjustments."

Brown says world oil production is projected to begin declining in 15 years. Some other analysts question that date, but recognition of the eventual problem for modern industrial societies that run on oil is spreading.

Defense Secretary Harold Brown warned last Wednesday that "an oil disaster" faces the United States unless energy consumption is cut. "The present deficiency of assured energy resources is the single surest threat that the future poses to our security and that of our allies," he said.

In talking about his study, Lester Brown cites the defense secretary's speech as part of an encouraging spread of awareness. But the study says the speech's theme of concern about access to current oil production is not so important as "another more serious threat, the eventual exhaustion of the world's oil supplies. . . ."

The promise of nuclear power to replace oil is not being realized as rapidly as is needed, Brown says. He calls for more attention to exploiting solar energy and other sustainable forms of energy.

The principal energy fuel in many "third world" countries, Brown says, is firewood. But it is being consumed faster than forests are regenerating. This is partly a problem of population growth in the poorer countries. The worldwide growth of population is slowing, but it needs to slow much more to avoid outrunning resources

Brown warns that fishing yields have peaked and declined as most of the best oceanic areas have been overfished in the last two decades. Pastures are being overgrazed, leading to erosion and the encroachment of deserts that "pose a far more serious threat to national security than do invading armies" in some countries. And farm lands are not keeping up with growing demands for food, he says.

"The traditional military concept of national security is growing ever less adequate as nonmilitary threats grow more formidable," Brown concludes.

By Mr. HELMS (for himself, Mr. DOLE, Mr. HAYAKAWA, Mr. MCCLURE, and Mr. THURMOND):

S. 2304. A bill to require that the Hungarian Crown of St. Stephen and other relics of the Hungarian royalty remain in the custody of the U.S. Government and that they not be transported out of the United States, unless the Congress provides otherwise by legislation; to the Committee on Foreign Relations.

Mr. HELMS. Mr. President, this morning's papers carry the news that President Carter has decided to return to the present Government of Hungary the Crown of St. Stephen and other holy relics pertaining to the Hungarian Nation.

Mr. President, this is not a casual gesture, nor is it merely the return of property to its rightful owners. The crown, as is well known, is the symbol of authority and legitimacy of the Hungarian Nation. It occupies a place in Hungary's history which is similar to the Constitution in ours; but it goes beyond that because it involves spiritual significance beyond that which is appropriate in our own society. The question is not only authority, but the legitimacy which comes from legal succession.

This whole question is of great importance to the Communist government of Hungary, because it cannot claim authority or legitimacy without possession of the crown. After all, it is a government which was imposed upon the Hungarian people, and which has sought to destroy that Nation's Christian heritage. It neither has the legitimacy of historic succession, nor the legitimacy of democratic institutions.

The return of the crown to such bloody hands is a defilement of its intrinsic meaning. But more than that, in contemporary terms, it is an expression of the so-called Sonnenfeldt doctrine, which consigns the Eastern European countries to the interest sphere of the Soviet Union, and guarantees to the Soviet Union that the United States has no interest in supporting, even morally, the hopes of the Eastern Europeans for a free government.

There is a major issue involved in this return. It is an issue that ought to be debated at length, and not decided while Congress is out of session.

Therefore, I am introducing legislation today which would require that the Crown of St. Stephen remain in the custody of the U.S. Government, and not be transported out of the United States, unless the Congress specifically provides otherwise by legislation.

This is the same legislation which has been introduced in the House as H.R. 7983 by Congresswoman MARY ROSE OAKAR, with 18 cosponsors. I would like to point out that the legislation takes no side on the question of whether or not the crown ought to be returned; it merely insures that there will be a full congressional debate before any decision is made. I have pointed out some of the ramifications, but I am sure that there are many views on the topic. But at least we should be able to agree that there be a full debate before any decision is made.

Mr. President, I ask unanimous consent that articles from the Washington Post and the New York Times be printed in the RECORD at the conclusion of my remarks.

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

[From the New York Times, Nov. 4, 1977]

UNITED STATES TO RETURN HUNGARY'S CROWN HELD SINCE END OF WORLD WAR II

(By Bernard Gwertzman)

WASHINGTON.—The Carter Administration, in a significant move to improve relations with Hungary, has decided to return to Budapest the Crown of St. Stephen, the symbol of Hungarian nationhood that has been in American custody since the last days of World War II.

Administration and Congressional sources said that the decision was conveyed to key members of Congress today.

Secretary of State Cyrus R. Vance intends to deliver the crown and crown jewels to the Hungarian Government at the end of President Carter's scheduled trip to nine countries, from Nov. 22 to Dec. 2.

The decision to return the crown and jewels is regarded by Administration officials as a symbol of the "changes that have occurred in recent years in Hungary. Under Janos Kadar, Hungary, in "terms of internal policy, has become probably the most

liberal of the East European countries linked to the Soviet Union.

Now that the crown issue is being settled, it is expected that steps will be taken to negotiate an economic agreement with Hungary. This would include granting Hungarian goods normal tariff status, the so-called most-favored nation treatment. Currently, only Poland and Rumania in the Soviet bloc receive such concessions.

Officials said that the question of returning the crown has been under active study for some time, and it was judged that this was the appropriate time. It is understood that Philip M. Kaiser, the American Ambassador in Budapest, strongly urged the move.

The crown was sent as a coronation gift to Stephen, Hungary's first King, in the year 1,000 by Pope Sylvester II. The Byzantine-style crown is studded with gems, decorated with miniatures depicting religious scenes and surmounted by an inclined cross. In addition to the crown, the other royal jewels include a gold scepter and orb and a gold-encrusted mantle.

CROWN A SYMBOL OF LEGITIMACY

All this has profound national symbolism for Hungarians, who trace their country's nationhood and conversion to Christianity to that period.

The jewels were turned over to American military authorities at the end of World War II by members of a Hungarian military guard who feared that it would otherwise fall into the hands of advancing Soviet troops.

The crown had been used in the coronation of more than 50 Hungarian kings and no state ceremony was considered legitimate without it. The common belief of many Hungarians was that as long as the crown was safe, so was Hungary.

After accepting the crown from the Hungarian guard in 1945, the United States sent it to West Germany for a few years. It was kept in American custody there and eventually transferred to Fort Knox, Ky., where it has remained.

The Hungarian leaders repeatedly asked for its return, but as relations hardened following the Communist takeover of the country in 1947, the United States refused to even consider the request.

After Soviet intervention in 1956 to crush the anti-Communist uprising, relations between Washington and Budapest became even worse. But in the last 10 years there has been a steady improvement, aided by Mr. Kadar's economic and political liberalization.

Soon after the Carter Administration took office in January, it was asked by several members of Congress, including some with large Hungarian-American constituencies, to consider returning the crown.

On April 6, the United States and Hungary signed a cultural and scientific exchange agreement, and officials said at the time that the accord might create "the necessary improvement in the climate."

American officials were impressed by Hungary's willingness in September to allow Billy Graham, the American evangelist, to make a week's tour of the country, something that likely would have been impossible earlier.

The Carter Administration up to now has not announced a special policy toward Eastern Europe, although it seems ready to continue the policies of trying to improve ties with Eastern European countries, encouraging where possible their divergences from the Soviet Union.

Administration officials said that initial inquiries with key members of Congress indicated support for the return of the crown.

By coincidence, Senator Joseph R. Biden, Jr. of Delaware, chairman of the Foreign Relations subcommittee on Europe, just visited Hungary and was preparing a report recommending the return of the crown jewels, officials said.

A major obstacle to the return of the crown and jewels was the situation of Jozef Cardinal Mindszenty, the Roman Catholic Primate of Hungary, who was imprisoned by the Communists following a controversial trial in 1949 on charges of treason.

After his release during the 1956 uprising, the Cardinal was given asylum in the American Legation in Budapest. He remained in the legation, what was later upgraded to an embassy, until 1971 when he left for the West.

He died in 1975, a fervent anti-Communist to the end, so opposed to the Vatican's improvement of relations with the Communist world that he was stripped in 1974 of his offices of Primate of Hungary and Bishop of Esztergom by Pope Paul VI.

[From the Washington Post, Nov. 4, 1977]

UNITED STATES TO RETURN LONG-SOUGHT SYMBOL—HUNGARY TO GET CROWN

(By Peter Masley)

The U.S. government has decided to return to Hungary its long-sought Crown of St. Stephen, a 1,000-year-old relic symbolizing the country's religious, cultural and national heritage.

"We feel that the time has come and that it would be the right thing to do to return it," a government official said last night.

All that remains for the expected return by the end of the year are assurances by the Hungarian government that the crown will be on public display and available to all Hungarians, the official said, "the same way our Constitution can be seen."

Rep. Mary Rose Oakar, a Democrat from Cleveland who says she represents the largest concentration of Hungarian-Americans, many freedom-fighters from the aborted 1956 Hungarian revolution, strongly objected last night after she was told by a State Department official of the U.S. decision.

Oakar is sponsor with 30 other House members of legislation that would require the President to seek congressional approval before the crown was returned.

Oakar said that last April 5 she was informed by letter from the State Department that "there are no present plans to return the crown to Hungary." Oakar said, "We feel strongly that the crown should not go back to the Communist government of Hungary."

"I was misled," she said.

She said she was told by a State Department official last night, and this was confirmed by another official who requested anonymity, that President Carter made the decision on the crown's return.

The crown, which came into the United States' possession at the end of World War II in the European theater, has been in the United States since 1953, and Oakar said she believes it and some related regalia are being held at Ft. Knox, Ky., where the U.S. Treasury stores bullion.

Among other things, the Crown of St. Stephen represents the beginning of Hungary as a political entity and a Christian nation. The upper portion was given by Pope Sylvester II in 1001 to King Stefan I, Hungary's first Christian monarch. The lower diadem was given to Stefan's successor, Geza, about 75 years later by Emperor Michael Ducas of Byzantium.

An official of the Hungarian embassy said last night that "for two decades we have always stated that the crown and crown jewels belong to the People's Republic of Hungary, where the Hungarian people live . . . The holding back of the crown creates the same situation as if some other government would hold back the Liberty Bell and won't give it back."

The U.S. official who last night confirmed the decision to return the crown attributed it to improved relations with Hungary and the belief that the crown belongs to the Hungarian people. Before the decision was made, the official said, "we had never made any special conditions as to how or when or in exchange for what we would return it."

Now, the officials said, the United States is negotiating with the Hungarian government for assurances that, once returned, the crown "would be on public display for all the people of Hungarian extraction to see it . . . We are seeking assurance that as a symbol of that religious, cultural and national heritage it is something that can be seen the way our Constitution . . . can be seen."

Oakar said she plans to take three actions in response to the administration's decision. She plans to deliver to President Carter a letter protesting it, to ask House Speaker Thomas P. O'Neill Jr. (D-Mass.) if House rules can be suspended so her bill can be taken up for a floor vote, and to get in touch with leaders of the Hungarian-American community to tell President Carter of their feelings.

In April, Oakar said, administration officials indicated there was no cause for her to worry about the crown's return. In May, she said, the new U.S. Ambassador to Hungary, Philip Kaiser and another State Department official, Thomas Gerth, met with her. "They wanted to know why the people felt so strongly about retaining the crown," Oakar said.

"There are thousands of Hungarians who fled Hungary in 1956 who will never be able to return to their ancestral home because they are considered criminals by this atheistic government," Oakar said.

Mr. DOLE. Mr. President, I am thoroughly dismayed and amazed at the action announced by the State Department that the administration is to return the holy crown of St. Stephen to the Hungarian Government. On October 28, I received a letter from the State Department in which there was no indication that such a step was being contemplated. In fact, the State Department admitted that "we realized that Hungarian Americans hold the crown in great esteem and that this factor, as well as the State of the United States-Hungarian relations, must be considered in any decision regarding the crown's return."

CROWN SYMBOLIZES POLITICAL LEGITIMACY

The crown has symbolized the political legitimacy of the government for over 900 years and its return would bestow that same legitimacy on the present day Hungarian Government. However, it came into power because it was placed there by the Soviet forces after the bloody suppression of the Hungarian people's brief fight for freedom in 1956. Although the Hungarian Government may seem liberal in light of the more repressive East European regimes, its "legitimacy" is only maintained against the background of Soviet military might. It is hardly a freely elected constitutional government of the Hungarian people. And it is for this reason that its status should not be legitimized by returning the crown.

RESOLUTION INTRODUCED

On July 12, I introduced a resolution, Senate Concurrent Resolution 34, stating that the crown of St. Stephen should remain in the safekeeping of the U.S. Government until Hungary once again func-

tions as a constitutional government established by the Hungarian people through free choice. This same sort of resolution was adopted at the American Hungarian Federation's Organization last annual meeting.

It is interesting to note during the last Presidential campaign, President Carter promised to consult with leaders of the American Hungarian organizations before any decision was taken regarding the return of the crown. No such attempts at such consultations were made.

THIS IS TIME OF MOURNING

The administration's decision is also disturbing in light of the fact that this is a time of mourning and commemoration for many Hungarian Americans throughout the United States. It is exactly the week that 31 years ago Soviet tanks rolled into Budapest to brutally put down the spontaneous uprising of the Hungarian people. Many friends and relatives of those who are now our citizens perished at that time.

I find this is a highly questionable and insensitive decision taken by the administration.

Mr. HAYAKAWA. Mr. President, I was extremely disappointed to learn today that the Carter administration has decided to return to Budapest the Crown of St. Stephen, the symbol of Hungarian nationhood that has been in American custody since the end of World War II. There were never any specific conditions set down for the return of the crown it was to be given back at the proper time upon the establishment of "normal" United States-Hungarian relations.

Apparently, the administration feels that the proper time is now. The decision was attributed to "improved relations" with Hungary and the belief that the crown belongs to the Hungarian people. No one can dispute the fact that the crown belongs to the Hungarians—it was sent as a coronation gift to Stephen, Hungary's first king, in the year 1,000 by Pope Sylvester II and has been used in the coronations of more than 50 Hungarian kings. At the end of World War II, the members of a Hungarian military guard turned the crown over to American military authorities to keep it out of the hands of advancing Soviet troops.

The proposal to return the crown has surfaced intermittently over the past few years and the State Department has consistently denied that there were any plans afoot to do this.

Now we receive this sudden announcement of a move which has been opposed by a large number of those Hungarians in this country who might be in Hungary today were it not for the regime installed there by the Soviet Union in 1948. We should not forget how thousands of Hungarians came to this country in 1956 to escape those rulers who will now be given this symbol of independence and Christianity.

The administration's point of view on this issue could not be more wrong or more unsophisticated. The crown is of immense symbolic significance. Symbols are the stuff of politics—why should we turn over the one symbol which represents political and moral legitimacy to the present Hungarian Government? No matter how "liberal" the regime is or may be, it has never met the test of a ballot, no matter how limited. In addition, no matter how independent it may be compared to other Soviet satellites, it remains a Soviet dependency imposed, in the final analysis, by force of arms. While the present regime in Hungary is straining to make the best of the situation, we must not forget that the deal it made with the Soviets in 1956 was a complete betrayal of the people it purports to represent.

I am not aware of anything that this country owes the Communist government in Hungary. If we are to have normal and friendly relations with the countries in Eastern Europe, we can surely manage that in the case of Hungary without presenting them with such a gift. I imagine they can be friendly without it—they manage to be friendly with their own oppressors.

By Mr. WILLIAMS (for himself, Mr. PROXMIRE, Mr. SPARKMAN, Mr. MCINTYRE, Mr. CRANSTON, Mr. STEVENSON, Mr. MORGAN, Mr. RIEGLE, Mr. SARBANES, Mr. NELSON, Mr. NUNN, Mr. HATHAWAY, Mr. HASKELL, Mr. CULVER, Mr. BROOKE, Mr. TOWER, Mr. GARN, Mr. HEINZ, Mr. LUGAR, Mr. SCHMITT, Mr. WEICKER, Mr. PACKWOOD, Mr. BARTLETT, and Mr. HAYAKAWA):

S. 2305. A bill to amend the Securities Act of 1933; to the Committee on Banking, Housing, and Urban Affairs.

Mr. WILLIAMS. Mr. President, I am introducing today a bill to amend the Securities Act of 1933 to assist small business in raising capital. Joining with me as cosponsors in this effort are all of the members of the Senate Committee on Banking, Housing, and Urban Affairs (Senators PROXMIRE, SPARKMAN, MCINTYRE, CRANSTON, STEVENSON, MORGAN, RIEGLE, SARBANES, BROOKE, TOWER, GARN, HEINZ, LUGAR, and SCHMITT), a majority of the membership of the Select Committee on Small Business (Senators NELSON, NUNN, HATHAWAY, HASKELL, CULVER, WEICKER, PACKWOOD, and BARTLETT), and Senator HAYAKAWA. Essentially, the bill would increase from $500,000 to $2,500,000 the aggregate amount of an issue which may be exempt from the full registration and prospectus requirements of the Securities Act of 1933.

Mr. President, the Federal securities laws have always reflected the national policy of encouraging the growth and expansion of small business. From the time of the original enactment of the Securities Act of 1933, the Congress has provided special treatment for small business by the Securities and Exchange Commission. Under section 3(b) of the act, the Commission is authorized to exempt certain classes of securities if the total offering price to the public does not exceed a specified amount. In 1933, the amount was $100,000 and twice in the past the Congress has acted to increase the amount of the small business exemption—in 1945 to $300,000, and most recently in 1970 to $500,000—in recognition of changes in the general economic conditions and increased costs of conducting business.

In the 7 years since the last amendment to section 3(b) of the act, costs have continued to rise throughout the economy, with the result that $500,000 has substantially less purchasing power today. In many cases, it is an inadequate amount to finance properly a small established business seeking to modernize or expand, or a newly organized venture requiring a substantial amount of seed capital.

The $500,000 limitation also makes it more difficult for issuers to interest investment bankers in exempt offerings under section 3(b), because the larger and more experienced investment banking houses are not interested in underwriting such small issues, partly because returns to them would not be commensurate with the effort needed to underwrite such an offering. Where an underwriter can be found, the underwriting commissions for these small issues run as high as 15 to 20 percent of the amount sold which, of course, reduces the funds available to the issuer of the securities. In times of increasingly tight money, banks and private sources may not be willing or able to provide adequate risk capital and, therefore, small business needs to have access to public financing.

Congress has indicated a continuing interest in promoting small business and new ventures and has provided several specific means of accomplishing this goal, such as Small Business Administration loans and Small Business Investment Company enabling legislation. The exemption afforded under section 3(b) of the Securities Act of 1933 is looked upon as an important adjunct to existing legislation in this field. However, to be effective, it should be realistic and reflect current price levels.

To assure that small businesses are able to attract capital at reasonable costs it is necessary for the Congress, once again, to amend this provision of the securities laws. Without adequate capital for small unseasoned business, our economy will become less dynamic, less competitive, and more concentrated. Industry will become less innovative. And the important task of creating jobs and achieving full employment will be made even more difficult.

Over the past few years, small business has experienced a capital shortage that is unprecedented in our financial history. According to a Small Business Admistration task force report on venture and equity capital for small business (January 1977), the evidence is alarming. While locating new equity capital has been a chronic problem for American business in general, small businesses have been hit most severely. According to this report:

> It is alarming that venture and expansion capital for new and growing small business has become almost invisible in America today. In 1972 there were 418 underwritings for companies with a net worth of less than $5,000,000. In 1975 there were four such underwritings. The 1972 offerings raised $918 million. The 1975 offerings brought in $16 million. Over that same period of time, smaller offerings under the Securities and many of them were unsuccessful. While this

catastrophic decline was occurring, new money raised for all corporations in the public security markets increased almost 50% from $28 billion to over $41 billion.

Accordingly the report recommends a series of specific steps and remedies, including a number of amendments to the securities laws, designed to provide new and small concerns with increased access to capital:

Increase the small offering exemption;

Enact the limited offering exemption as proposed in the American Law Institute project to codify the securities laws;

Retain and simplify Rule 146;

Amend Rule 144 to provide that the existing quantitative limits apply for only a three-month period rather than a six-month period. In addition, change those limits to one percent of outstanding shares or the average weekly volume, whichever is higher instead of whichever is lower;

Develop procedures under which solicitation, with appropriate compensation to develop a market, may be undertaken if buyers are provided with copies of financial data and other disclosures regularly filed with the SEC along with a supplemental statement on mode of offering, identity of underwriters, price of securities offered, and information needed to update the data on file with the SEC.

As chairman of the Subcommittee on Securities, I fully appreciate that the securities laws, designed to protect the investing public, may also operate as an impediment to businesses of all sizes in raising the capital they need. However, the interests of American business and those of investors and shareholders coincide and should be advanced harmoniously. After all, these interests, and the national interest in a robust and diverse economy, are all one and the same.

For this reason, I believe it is highly desirable at this time to implement the change recommended by the Small Business Administration Task Force regarding the small offering exemption. Other recommendations are more difficult and will require additional study.

In the meantime, Congress should act swiftly to amend the Securities Act of 1833 to increase to $2,500,000 the exemption available under section 3(b).

Mr. President, in view of the widespread support within the Congress of the need to continue to preserve and promote the role of small business in our national economic life, I am hopeful this legislation can be enacted without delay.

Mr. NELSON. Mr. President, I am delighted to join with the junior Senator from New Jersey in sponsoring this important legislation which is designed to enable more small and growing businesses to raise equity capital through public stock offerings. I commend Senator WILLIAMS for taking the lead on this proposal.

As chairman of the Senate Small Business Committee, I have given a high priority to legislative measures to meet the venture capital needs of independent businesses. As a longtime member of the Small Business Committee, as well as through his post as chairman of the Securities Subcommittee of the Banking, Housing, and Urban Affairs Committee, Senator WILLIAMS is uniquely qualified to press for the passage of such legislation.

The increased limitation on regulation A offerings is a significant first step; a number of other actions should follow to guarantee the access by small business to the capital-raising mechanisms in our economy.

Earlier this year, I sponsored S. 1815, the Small Business Venture Capital Act of 1977 in which I was joined as cosponsor by Senators MCINTYRE and WEICKER. Titles II and III of that bill addressed the same objectives as the bill being introduced by Senator WILLIAMS today. The other members of the Small Business Committee and I look forward to working with Senator WILLIAMS in the consideration of the additional Securities Act provisions contained in S. 1815.

Mr. TOWER. Mr. President, in early 1976, Congress directed the Small Business Administration to study, among other things, the "direct costs and other effects of Government regulation on small businesses," and to "make legislative proposals for eliminating excessive or unnecessary regulations," section 202 (3), Public Law 94–305. As ranking minority member of the Banking Committee at that time, I was pleased to support that initiative, as I am now gratified to see its results.

One of the many specific recommendations of the study is to allow the Securities and Exchange Commission to raise the small issue exemption in the securities laws. Specifically, section 3(b) of the Securities Act of 1933 now allows the Commission to exempt from the requirements of the act, under conditions and terms to be prescribed by the Commission, securities transactions of an amount not to exceed $500,000. The bill we propose today would raise this limit to $2.5 million.

In 1969, a record 649 issues totaling $1.4 billion were brought to the public market by companies with a preoffering net worth of less than $5 million. By 1975 only three such issues reached the market, and although 1976 was slightly better with approximately 35 issues, small businesses continue to have difficulty raising capital in the public markets.

Much of the decline is due to adverse market conditions, but an often cited factor is that the registration cost of a small issue is simply prohibitive. Many of the issuer's expenses represent fixed costs, so that, relative to a large offering, a small issue becomes proportionately more expensive. This has always been true, and the small issue exemption was intended to alleviate this bias against small issues caused by the registration procedure.

The value of a typical small issue today, however, is $1 to $3 million and the cost of registration has likewise risen. The result is that the intended benefit of the exemption is no longer being realized. The number of "reg. A" offerings filed with the Commission has declined from 81" in 1973, to 240 in 1976.

Mr. President, this bill will not solve the capital crisis which small business are now facing. Yet, it is my hope that through a series of measures like this, taken one at a time, the burden will be lifted from our Nation's small businessmen.

The bill has the support of every member of the Banking and Small Business Committees. It is my hope that my other colleagues will join me in supporting the bill and that we can act expeditiously on it.

Mr. BROOKE. Mr. President, I am pleased to be a cosponsor of this bill which would raise the amount of the small offering exemption in section 3(b) of the Securities Act of 1933 from $500,000 to $2.5 million. By increasing the statutory limitation, the bill would provide small businesses with a much greater opportunity to raise necessary capital funds in our Nation's securities markets.

The statutory small offering exemption and the Securities and Exchange Commission's regulation A thereunder provide a means by which small businesses may issue securities without having to comply with all of the detailed disclosure standards established pursuant to the Securities Act. By utilizing the simplified disclosure procedures of regulation A, a small business can make a securities offering that benefits securities purchasers through adequate financial and related business disclosures, while at the same time benefiting itself through less burdensome accounting, legal, printing, and other offering costs. In my opinion, increasing the ability of small issuers to use regulation A is an action that we should take in order to encourage small companies to remain a viable part of our economic system.

In the past few years, the number of regulation A offerings filed with the Securities and Exchange Commission has declined, decreasing from 438 offerings in 1974 to 240 offerings in 1976. This decline has been due partly to adverse market factors and partly to inflationary economic conditions which, considering the escalating costs involved in any type of securities offering, have made it less financially rewarding to make a small offering. Moreover, offerings that do not significantly exceed $500,000 have also been adversely affected by inflationary and other costs pressures, particularly the higher expense of filing a full registration statement under the Securities Act of 1933. Thus, because of factors largely beyond their control, small issuers today are finding it increasingly difficult to raise capital through public securities offerings.

Earlier this year, the Small Business Administration completed a congressionally directed study of the problems and needs of small businesses and, in its recommendations regarding the capital needs of small businesses, specifically urged Congress to increase the $500,000 small offerings limitation contained in the Securities Act. Underlining the need for such an amendment, the SBA emphasized that small businesses are finding it increasingly difficult to find economical sources of capital and a simplified manner of acquiring it.

Mr. President, the strength of our economic system has been due in large part to the ability of small regional businesses to operate and flourish alongside national and multinational corporations. As a vital part of our diversified economy, small businesses should be assured of a reasonable opportunity to compete

in the capital markets with larger corporate issuers. While this bill will not guarantee the financial well-being of small businesses, it will greatly increase their ability to raise low-cost funds in the securities markets.

There is widespread recognition in the Senate of the need for this bill, as evidenced by the support given it by almost all of the members of the Banking and Small Business Committees. Mr. President, it is my hope that the Senate will approve it without delay.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2306. A bill to establish a national system of reserves for the protection of outstanding ecological, scenic, historic, cultural, and recreational landscapes, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL RESERVES SYSTEM ACT OF 1977

Mr. WILLIAMS. Mr. President, in 1975 the Soil Conservation Service undertook a study of land uses and trends in the United States. What the study revealed about our annual loss of open land is quite disturbing. Some 2 million acres every year are converted to urban use. Another 2 million acres are broken up and isolated by "leapfrog" development. Still another million acres are flooded by water supply projects. In all, 5 million acres each year are removed—in most cases, irreversibly—from the natural landscape.

The disappearance of these lands diminishes the quality of life for us all. Open spaces provide a needed respite from the pressures of urban living. Farmland produces the food and fiber upon which the United States and much of the world depend. Woods and wetlands serve as habitat for myriad plant and wildlife species and help to purify our air and water. As these lands shrink and recede, so do the benefits we derive from them.

Not only open spaces have succumbed to development pressures. Historic towns and districts, which serve as benchmarks in our national life, have also been transformed, their significance lost.

The effect of this erosion of natural lands and historic places is exacerbated by several factors.

For the first time, our nonmetropolitan population has begun to grow faster than our metropolitan population. This means that, rather than urban sprawl, the trend is now toward population diffusion. The urge to urbanize is no longer confined to metropolitan areas, but is being felt in small towns and rural places across the country. The Interstate Highway System has permitted people to live beyond the suburbs and commute long distances. Factories and other businesses have moved out of central cities into more rural settings, where taxes are lower, labor is cheaper, and governmental regulations are less onerous. Our growing population of retired people is also moving out of metropolitan areas, while vacation homes are springing up deep into the countryside.

As the population has shifted and dispersed—particularly into the South and West—open space is becoming a precious commodity in areas where before it seemed unlimited. There has, of course, been no compensatory increase in open space in the metropolitan areas left behind.

Another factor that further intensifies the pressure on land is that the children of the post-war baby boom have begun to reach the house-buying age. Although many in this group have postponed families, their demand for land-consuming single-family homes has entered a peak period and will continue to rise for another decade. The recession has added to the present booming housing market by creating a pent-up demand for homes—a demand which has been released in recent months.

How should we deal with these ever-increasing demands on scarce land? The answer is not to stop building houses and factories, dams and highways. Rather, it is to insure, by planning ahead, that these developments do not needlessly destroy our natural and cultural heritage. We need to take steps now for the protection of natural landscapes and historic areas before they are lost forever.

Our traditional means of meeting this need is expansion of the national park system. Over the past few years, this expansion has been increasingly geared toward our metropolitan areas, where most people live. Gateway, Golden Gate and Cuyahoga Valley National Recreation Areas, and Indiana Dunes National Lakeshore have begun to provide open space and recreational opportunities at close range for millions of people. But if we carried this approach to all the other major cities which have equally legitimate needs for recreation, the costs of land acquisition and development, operation and maintenance would be astronomical. Even now, the National Park Service is seriously overextended in trying to manage existing parks. Staff levels have not kept pace with the rapidly growing number of new units and visitors.

The land and water conservation fund, which supplies the acquisition money for the National Park Service and other Federal agencies, as well as providing grants for State park programs, was increased substantially in the last Congress. But compare the fund's $900 million annual authorization with the $3 billion backlog in authorized and soon-to-be authorized Federal parkland acquisition. And compare it with the $45.6 billion which the States alone have estimated they will need for open space acquisition and development over the next 15 years.

The disparity between the need for parkland and the funds available for meeting that need is tremendous, and it is growing. Soaring land prices have made acquisition of extensive landscapes prohibitively expensive. Nationwide, the price of land doubles every 7 years. In some cities, it doubles as fast as every 2 years. Even in rural areas, agricultural land costs five times more today than in 1950. Its cost has doubled in the last 5 years alone.

We simply cannot afford to protect the amount of land we need for open space through the traditional approach of direct public acquisition and Federal management. Because of our limited resources, this approach cannot be applied uniformly or equitably nationwide. It can only concentrate our resources on a few areas, while condemning countless others to the bulldozer.

In some cases, public acquisition is not only too expensive but inappropriate. The beauty and integrity of natural landscapes may depend upon the farming and other private activities they support. The meaning of historic districts often resides in their industries and their inhabitants. By eliminating private ownership and activities through public acquisition, we may also eliminate a significant part of the esthetic and cultural value of the resource.

In addition, we may needlessly eliminate an important economic base and source of revenue of local communities. Federal acquisition can mean the loss of tax ratables as well as the loss of employment and income derived from compatible private uses of the land. Growth and change that would produce economic benefits without diminishing the quality of the landscape are no longer allowed once the land is locked up by public acquisition.

In some areas, Federal planning and management may be inappropriate and unwelcome. Local residents and officials may be the first to recognize the natural or cultural significance of a place and the need to protect it. Excluding them from the planning and management process may be unjust, inefficient and expensive. What we need, it seems to me, is an alternative to the traditional means of protecting outstanding natural and cultural areas, in cases where traditional means are too expensive and inappropriate. We need to combine the resources and capabilities of all levels of government, as well as the private sector, so that each contributes in the way it is best suited toward the protection of these areas. We need to let communities live and grow and change, while at the same time we protect their outstanding public values. We need to preserve local control, private ownership, and the economic base of communities, while helping them to find ways of saving scenic landscapes and historic neighborhoods.

To do these things, we need to employ the whole gamut of conservation techniques, selecting those that are most suitable, most economical and most efficient for a particular area. State and local governments can use zoning, air and water quality standards and project review and permit systems to control and direct development. The Federal Government can provide technical and financial assistance for protecting land and water resources, and assure that Federal projects do not degrade these resources. Private landowners can donate land or interests in land, bringing scenic and recreational benefits to the public and considerable tax savings to themselves. Public bodies can use a variety of tools for acquiring adequate interests in land, short of fee acquisition. Land may be purchased and resold or leased back with

restrictions on development. Development rights and the right of public access may be acquired, while the ownership of the land remains in private hands.

Planning needs to start at the grassroots—from the local perception of the need to protect a landscape. Local citizens and governments must be involved throughout the process of planning, implementation, and management.

To meet these needs, I am introducing today with my distinguished colleague from New Jersey, Senator CASE, a bill which would establish a new system of ecological, scenic, cultural, historic, and recreational areas, called national reserves.

The first candidate for this system would be the New Jersey Pine Barrens, located between New Jersey's famous seaside resorts and the heavily populated northeastern corridor. The Pine Barrens are accessible to some 50 million people. And yet, they remain a vast and largely untouched wilderness of pine and oak forests, lakes, and streams, that contains a variety of rare wildlife and plant species. The wilderness is broken here and there by small communities and farms, as well as cranberry and blueberry bogs, that are among the most productive in the Nation. Relics of past industrial activity provide insights into the area's rich history.

Just beneath the porous soil of the Pine Barrens lies an enormous reservoir equivalent to a lake 2,000 miles square, which maintains the delicate ecological balance of the pines. Development pressures on all sides have begun to threaten this highly vulnerable aquifer and the open space character of the landscape. Because of the vastness of the area, the high cost of land there, and the value of its agriculture and other private activities, the Pine Barrens are probably not suitable for a national park, although their national significance is undisputed. Rather, this area could serve as a test of the national reserves concept—the first prospective component of the national reserves system.

Other outstanding rural and urban landscapes, like the Pine Barrens, do not fit the traditional mold of national parks, and yet, they need protection. The Department of the Interior is currently looking at some of these landscapes as part of its urban recreation study. I feel that this study, together with the bill I am introducing with Senator CASE, can help to guide us toward the goal of saving the natural and cultural values of our land.

Sixteen years ago, when I introduced the Open Space Act, I said:

> The question is whether we wish to continue our haphazard, wasteful, and often deeply unsatisfying pattern of development, or whether we wish to create something of lasting value.

The question is before us again today, and our answer will help to determine the legacy we leave to future generations.

Mr. CASE. Mr. President, the legislation I am introducing with Senator WILLIAMS today establishes a new system of protecting areas of outstanding ecological, scenic, cultural, historical, and recreational significance.

Our bill is designed to provide protection to areas like New Jersey's Pine Barrens that are too big, too complex, too valuable, and too interwoven with the fabric of existing communities to be protected by the Federal Government alone or by any existing system of parks, recreation areas, or preserves.

The bill provides for a system of protection through a partnership of Federal, State, and local governments. It permits continuation of private ownership when private use of the land is compatible with the need for protection of the area and seeks, to the greatest extent possible, to protect against loss in value of privately held land without just compensation.

My sponsorship of this bill grew out of a concern about the need to protect the New Jersey Pine Barrens, the largest undeveloped stretch of land on the eastern seaboard, from development that would destroy its intrinsic and unique values.

For a number of years I have been searching for a means of providing greater protection to this area, which the Bureau of Outdoor Recreation has said is "among the most outstanding natural areas in the country."

In the process, I learned that there were a number of others who shared my concern and had identified a number of other areas in this country which meet the criteria for designation as a national park natural area, a national recreation area, or some other form of protection encompassed in existing law.

For various reasons, these areas do not fit in well with existing programs that call for a unilateral Federal effort and rely principally on fee acquisition of the lands involved.

We believe our bill will provide a mechanism for handling an increasing number of bills that have been introduced to provide Federal protection for various areas, particularly those that would involve an impractical degree of Federal land acquisition. Our bill will permit protection of these areas without extensive acquisition of land, without extensive disruption of private land ownership, and without unwarranted preemption of State and local governments.

Under our bill, each unit of government is assigned the role it is best suited to play. In all cases, actual land acquisition is held to a minimum and other means of land management are given priority.

For example, once a national reserve has been established under the provisions of the bill, the Federal Government will be authorized to provide funds for acquisition of a limited number of strategic sites within the reserve. But payments also will be authorized to compensate private landowners for the right of public access, for the costs of other compensatory payments to landowners, for payments in lieu of taxes to local units of government, and for costs of development of special public recreation and historical interpretation projects. In addition, the Federal Government will be authorized to purchase land which then would be resold or leased to the original owner or others with restrictions on its future use, thus protecting the interest of the landowner and meeting the needs of the reserve.

Our bill also seeks to assure the greatest possible degree of State, local, and public involvement in the development of a national reserve.

An area can be nominated for designation as a national reserve by a Member of Congress, the Secretary of the Interior, the Governor of a State, two or more units of local government, or a State legislative body.

Nominations will be presented to the Secretary of the Interior who, with the help of a council established by the bill, will screen the applications to determine if a feasibility study is warranted. Among the criteria to be considered by the Secretary during this process is whether there is adequate local interest in protecting the area.

On the basis of the feasibility studies, recommendations will be made to Congress that an area be designated as a "national reserve planning area."

An exception to this process is made for New Jersey's Pine Barrens, which is designated in the bill itself as a "national reserve planning area," since it is already known that this area meets the criteria for such designation.

Once an area is designated as a national reserve planning area, a management plan will be drawn up for the area and submitted to the Secretary of the Interior who, if he finds it meets the criteria in the bill, will submit the plan to Congress. Only after specific approval of Congress of the management plan would an area be officially designated as a national reserve.

Since the Pine Barrens is designated as a planning area, preparation of a management plan for that area can begin upon enactment of this bill.

The Pine Barrens is located in the southern half of New Jersey, between the famous seaside resorts and the major New York-Philadelphia corridor. The Northeast's intensive urbanization has bypassed this 1,500-square-mile remnant of a pine-oak forest.

It is a subdued, restful area with low shrubs and dwarfed pines and oaks growing in a highly porous soil that absorbs 90 percent of the rain that falls in the area.

The porous soil has created an aquifer that stores some 17.7 trillion gallons of water, an amount equal to 10 years of rainfall or the equivalent of a lake 2,000 square miles in area and 37 feet deep. Because of the porous soil and the shallow depth of the aquifer, this giant underground reservoir could easily be polluted if intensive development took place in the area.

In terms of recreation, the Pine Barrens offers boating, hunting, fishing, hiking, nature study, and camping to some 50 million people who live within a radius of about 50 miles of the area.

The unusual combination of soils, water table, and climate make the Pine

Barrens first in the Nation in blueberry production and third in cranberry production. Fortunately, this type of activity is compatible with protection of the other resources of the Pine Barrens.

The flora and fauna of the Pine Barrens include many relics of the ice age, most of which are rare and unusual and some of which are found nowhere else in the Nation.

All of these values must be protected. At the same time the interests of local government and private landowners must be protected.

We believe our bill will accomplish these objectives to the greatest possible degree. We believe it provides a means of protecting not only the Pine Barrens but similar areas throughout the country. We expect the bill to receive wide national support. At the end of this year, the administration will release its urban park study, which we expect will also recommend the approach contained in our bill.

We urge careful consideration of this bill, not only for the protection of New Jersey's Pine Barrens, but also for its application to other areas of the country in need of similar protection, areas of national significance that are better known to other Members of the Senate.

By Mr. HANSEN:

S. 2307. A bill to amend the Interstate Commerce Act to prohibit the amount which any common carrier by motor vehicle charges any shipper for the transportation of the household goods of such shipper from exceeding by more than 10 per centum the estimate provided by such carrier for the transportation of such household goods; to the Committee on Commerce, Science, and Transportation.

Mr. HANSEN. Mr. President, perhaps no fact of American life is more widely recognized than the mobility, the transience of our society. Each year, nearly 18 percent of our Nation's population change their place of residence.

My home State of Wyoming, for example, has experienced tremendous changes in the makeup and size of our communities. Our residents have witnessed first hand a doubling and, in cases, a trebling of the size of our cities and small towns. Cities in Wyoming are well aware of the rapid and dramatic increases in population that accompany development in its early stages and the decline and leveling off that follows.

Thus, we in Wyoming are familiar with the movement of homes and families which takes place throughout America each year and the resultant problems which such moves generate. Any move, regardless of its distance or desirability, is a traumatic event. Familiar surroundings are exchanged for new arenas, old friends for new faces, and comfortable positions for new challenges.

Yet for many Americans, there is an additional crisis to be faced in the course of such moves—that is, a totally unexpected and, in many cases, a very significant increase in the cost of shipping one's household goods. What we are talking about here, is that basic decision of whether or not to utilize another's goods or services, a decision which is a fundamental part of the American free enterprise system.

Ideally, the householder, contemplating a move, inquires as to the cost of a rental vehicle. He computes the time and effort he would be required to expend in packing and loading, driving, unloading and unpacking his household goods. Basically, he calculates his opportunity costs. At that time he may contact a moving and storage company and request an estimate or even a number of such estimates. After a comparison he makes a decision based upon the costs involved, his ability to pay and his own particular preferences. Each year, approximately 30 percent of the 1.2 million who move their household goods by way of ICC-regulated carriers operate in such a fashion. Unfortunately, some 26 percent of these estimates fall short of the total cost of the move by in excess of 10 percent.

Generally, when a consumer has requested and received a firm estimate and the final cost of the goods or services exceeds the estimate, he has at least some recourse. He has the ability to bargain, to barter with the seller or serviceman and thus to agree upon a price. In certain circumstances he may pursue other avenues, but at least there is some action available to him.

The case is different for the shipper of household goods. As a result of the Interstate Commerce Act, a carrier must compute final charges on the basis of the shipment weight, distance traveled, accessorial services provided and the liability protection requested by the shipper regardless of what total amount may have been estimated. Thus no carrier may enter into a contract with a shipper of household goods providing for the carrier to assess only the charges which were estimated.

In the event of an inaccurate estimate, what legal recourse does a shipper of household goods have available? I asked this question of the ICC, to which they responded as follows:

> In the event of an underestimate the shipper, if he is in a position to prove such an allegation, can seek damages in a civil court on the basis that he was induced to enter into the bill of lading contract by misrepresentation or fraud. As a practical matter such an allegation is difficult, if not almost impossible, to prove and we are not aware of any shipper who has taken such action.

Even the ICC is limited in the action it can take against a carrier responsible for underestimates. Once again, according to the ICC:

> There is no automatic penalty, monetary or otherwise, against a carrier as a result of an underestimate. If a carrier makes a practice of deliberately underestimating, the carrier can be found subject to the penalty provisions of the Interstate Commerce Act in that this would amount to an unreasonable practice contrary to Section 216(b) of the Act.

Mr. President, here is an excellent example of a situation in which legislation adopted with the best of motives has operated to place consumers at a disadvantage, to place them at the mercy of a moving and storage company. It is time that legislation was adopted to remedy this situation in order to protect the hundreds of thousands of Americans throughout this country who each year pack up their belongings and move.

Already the State of California has taken corrective action with regard to intrastate carriers. The California Publice Utilities Commission adopted a ruling specifically designed to prevent underestimates. While this rule does not require carriers to provide estimates, if the carriers do provide such estimates they must be in writing and they must be based upon a physical inspection. The major prohibitive measure of the rule is the establishment of a maximum percent of the estimate that the carrier can collect from the shipper. If charges exceed the maximum the carrier must refund the excess and pay a fine.

The California program has been a significant success. The number of underestimates has been greatly reduced. During the second half of 1975, for example, 0.9 percent of all estimates under California Public Utilities Commission regulation were underestimates as compared to 26 percent under the ICC procedure during the same time period. This reduction has resulted, at least during the first half of 1976 in a 99.29 percent decrease in the amount of money necessary, above an estimate, in order to obtain delivery of a shipper's goods.

Mr. President, the California experience has proven the efficacy of an approach of this type. Thus today, I introduce legislation along similar lines. The bill I introduce would:

First, require a common carrier of household goods to provide a shipper with a written estimate to be maintained as a part of the carrier's record of shipment.

Second, prohibit the carrier from charging an amount greater than the original estimate plus 10 per centum of that same estimate.

Third, prohibit the carrier from detaining the household goods of a shipper once the shipper pays a maximum of the original estimate plus 10 per centum of the same estimate.

Fourth, provide for fines to the carrier in violation of the above.

Fifth, allow a shipper to sue a carrier in any district court of the United States for violation of the above.

Sixth, allow the filing of a complaint with the Interstate Commerce Commission and authorize the Commission to order the carrier to comply with the provisions of this bill.

Mr. President, I urge the Commerce, Science and Transportation Committee to hold hearings on this matter as expeditiously as possible in order that we might remedy this situation. I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) is amended by adding immediately after section 216 the following new section:

"ESTIMATES FOR THE TRANSPORTATION OF HOUSEHOLD GOODS

"SEC. 216a. (1) No common carrier by motor vehicle engaged in the transportation of household goods shall, upon the request of any shipper of household goods, refuse to give such shipper an estimate for the transportation of such goods. If such shipper contracts with the common carrier by motor vehicle for the transportation of such goods, a copy of such estimate shall be maintained by such carrier as part of its record of shipment.

(2)(A) No common carrier by motor vehicle shall charge any shipper of household goods to whom such carrier has given an estimate more than an amount equal to the reasonable rate determined by the tariffs in effect at the time the vehicle used by such carrier is weighed in accordance with the rules and regulations set forth by the Commission or an amount equal to 10 per centum over the estimate, whichever is the lesser amount.

"(B) No common carrier by motor vehicle shall detain the household goods of any shipper to whom such carrier has given an estimate once such shipper has paid to such carrier an amount in accordance with paragraph (2)(A) of this section.

"(3) Any common carrier by motor vehicle who is found to be in violation of any provision of this section shall be fined a civil penalty of not less than $100 nor more than $500 for the first violation of any provision of this section and not less than $200 nor more than $500 for each subsequent violation of any provision of this section.

"(4) Any shipper of household goods whose goods are detained by a common carrier by motor vehicle in violation of the provisin set forth in paragraph (2)(B) of this section may bring an action for relief in any district court of the United States in accordance with the provisions of chapter 87 of title 28 of the United States Code. The court shall have exclusive jurisdiction, without regard to the amount in controversy or the citizenship of the respective parties, to hear the case and to enforce such provision. The prevailing litigant shall recover reasonable attorneys' fees as fixed by the court, and such fees shall be in addition to any costs allowable under the Federal Rules of Civil Procedure.

"(5)(A) Any person, State board, or public entity may file a complaint in writing with the Commission alleging that a common carrier by motor vehicle is in violation of any provision of this section, unless an action based on such violation has been commenced under paragraph (4) of this section.

"(B) After the filing of such complaint or upon an investigation initiated by the Commission, and after giving the common carrier by motor vehicle notice and an opportunity for a hearing in accordance with section 554 of title 5 of the United States Code, if the Commission finds that such carrier has violated any provision of this section, the Commission shall order such carrier to take such action as is necessary to comply with such provision, in addition to awarding reasonable attorneys' fees to the complaining party.

"(6) If no hearing is commenced by the Commission within thirty days of the filing of a complaint under paragraph (5) of this section by any shipper injured by a common carrier by motor vehicle acting in violation of any provision of this section, such shipper may bring an action in any district court of the United States in accordance with the provisions of chapter 87 of title 28 of the United States Code. Upon the commencement of such an action, the court shall have exclusive jurisdiction, without regard to the amount in controversy or the citizenship of the respective parties, to hear the case and to enforce the provisions of this section.

"(7) As used in this section—

"(A) the term 'estimate' means any written approximation of charges for the transportation of household goods given by any common carrier by motor vehicle to the shipper of such goods before a contract for the transportation of such goods is signed; and

"(B) the term 'household goods' means—

"(i) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of that dwelling;

"(ii) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments; and

"(iii) articles, including objects of art, displays and exhibits, which because of unusual nature or value require the specialized handling and equipment usually used in the transportation of the articles dscribed in clause (i) of this subparagraph.".

(b) Section 217(b) of such Act (49 U.S.C. 317(b)) is amended by striking out "No common carrier by motor vehicle" and inserting in lieu thereof "Except as provided in section 216a, no common carrier by motor vehicle".

(c) The first sentence of section 223 of such Act (49 U.S.C. 323) is amended by inserting "as provided in section 216a or" immediately after "except".

SEC. 2. The amendments made by the first section of this Act shall take effect thirty days after the date of the enactment of this Act and shall only apply to any estimate given after that date.

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

S.J. Res. 98. Joint resolution to authorize and request the President to issue a proclamation designating May 21, 1978 as "National Fallen Heroes Day", and for other purposes; to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, I send to the desk a resolution authorizing and requesting the President to declare Sunday, May 21, 1978, as "National Fallen Heroes Day," I am pleased to say that my colleague from the State of Maryland, Senator SARBANES, joins me in cosponsoring this resolution.

National Fallen Heroes Day will allow all Americans to recognize and pay tribute to those law enforcement officers and firefighters who have given their lives in the service of the country and its citizens.

I think my colleagues will agree that it is fitting to so honor law enforcement officials and firefighters who gave their lives while protecting the lives and property of the people of the United States. We should acknowledge their sacrifice and honor their memory.

Mr. President, I ask unanimous consent that the text of this resolution be printed at this point in the RECORD.

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

S.J. RES. 98

Whereas, throughout the years many law enforcement officers and firefighters have made the supreme sacrifice by giving their lives in the service of the people of the United States of America; and

Whereas, it is appropriate to commemorate the sacrifices of brave citizens by setting aside a day in their honor and by displaying the United States flag at half-staff: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 21, 1978 as "National Fallen Heroes Day" and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

SEC. 2. The President is authorized and requested to include in the proclamation issued under the first section a provision calling upon Government officials to display the United States flag at half-staff on all Government buildings, and the people of the United States to display the flag at half-staff at their homes or other suitable places.

ADDITIONAL COSPONSORS

S. 1214

At the request of Mr. ABOUREZK, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1214, the Indian Child Welfare Act.

S. 1575

At his own request, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 1575, to protect farmers against certain losses.

S. 1644

At the request of Mr. PACKWOOD, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1644, to give tax equity to parents without partners.

S. 1728

At the request of Mr. ANDERSON, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 1728, relating to the prevention of domestic violence.

S. 2128

At the request of Mr. INOUYE, the Senator from New Hampshire (Mr. DURKIN) and the Senator from Florida (Mr. STONE) were added as cosponsors of S. 2128, to amend the Internal Revenue Code.

S. 2236

At the request of Mr. RIBICOFF, the Senator from Montana (Mr. METCALF), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. STEVENS), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2236, relating to international and domestic terrorism.

SENATE JOINT RESOLUTION 35

At the request of Mr. INOUYE, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 35, designating Municipal Clerks Week.

SENATE JOINT RESOLUTION 96

At the request of Mr. CRANSTON, the Senator from Colorado (Mr. HART) was

added as a cosponsor of Senate Joint Resolution 96, relating to the regulations on the 160-acre limitation of the Federal reclamation laws.

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. WILLIAMS, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of Senate Concurrent Resolution 54, relating to human rights of the Helsinki accords.

SENATE RESOLUTION 324—SUBMISSION OF A RESOLUTION RELATING TO CUSTOMS DUTIES ON TEXTILES

(Referred to the Committee on Finance.)

Mr. HOLLINGS submitted the following resolution:

S. RES. 324

Whereas the United States of America, acting through Congress and the President, has developed reciprocal trade policies making the U.S. market one of the most open in the world; and

Whereas the current status of trade is neither fair, equal nor equitable to the United States because of the existence in foreign nations of official and unofficial nontariff barriers, of patterns of noncompliance with existing trade agreements, and of the absence of comparable wage, environmental and safety standards; and

Whereas the failure of the United States to adequately monitor and enforce existing trade agreements contributes to the problem; and

Whereas the GATT Multifiber Arrangement expected to be ratified in late 1977 includes an annual 6 percent quota growth factor which will allow textile and apparel imports to capture an ever-growing share of the U.S. domestic market which is expanding at an average annual rate of only 2.9 percent; and

Whereas the best efforts of the Special Trade Representative notwithstanding, the MFA's overly generous quota growth factor impairs the ability of the U.S. government to negotiate bilateral textile and apparel trade agreements which hold imports to levels consistent with the rate of growth of U.S. demand for domestically produced textile and apparel products; and

Whereas the textile and apparel industry is reportedly being targeted by the Administration for deep tariff cuts during the upcoming Tokyo Round of Multilateral Trade Negotiations; and

Whereas deterioration of the U.S. industry with attendant plant and mill closings and loss of jobs has continued even at existing tariff levels; and

Whereas further import penetration will result in increased unemployment, particularly among women and minorities, will endanger the national security, will deepen the balance of trade deficit, and will generally adversely affect the entire economy; and

Whereas it is in the best interest of the United States that the textile-apparel industry remain viable and healthy: Now, therefore, be it:

Resolved by the Senate, That there be no reduction of customs duties on textile or apparel or fiber products and that such products be excluded from the Tokyo Round of Multilateral Trade Negotiations now under way in Geneva.

Mr. HOLLINGS. Mr. President, I am today submitting a resolution putting the Senate on record against any reduction of customs duties on textile or apparel or fiber products, and in favor of excluding these products from the Tokyo Round of Multilateral Trade Negotiations presently underway.

Our textile-apparel industry in this country faces grave danger. This industry is of such magnitude that any injuries it suffers reverberate throughout the economy, and that has indeed been the case here. Let me mention at the outset that the textile-apparel complex is the largest employer of manufacturing labor in the United States—large enough to include one out of every eight manufacturing jobs. It is a $70 billion a year business with 2,300,000 paychecks going out every payday. Those paychecks go to some very critical sectors of our economy. They go at double the national average to women and minority groups, who make up such a disproportionate share of our unemployment problem. And they go to rural America, where jobs are scare and where dislocation has already inflicted so much havoc. In terms of what it produces, of who it employs, of where the work is done, of what the industry has done to modernize to remain competitive, we are talking about something fundamental to the well-being of America.

Yet this vital industry has been confronted with dire threats from continuing high rates of imported goods. From 1965 through 1976, the value of textile and apparel imports jumped 250 percent, from $2 to $5 billion. While these are numbers to some, they mean jobs to others. The number of jobs lost by this flood of foreign goods and the number of plants closing puts a strain on our economy and a hardship on our people that they should not have to tolerate. The imports in the past 5 years translate into a minimum of 400,000 American jobs lost. Already this year there have been 24 major closings of knitting, weaving, spinning, and finishing mills.

Mr. President, a continuation of this avalanche of foreign imports is intolerable. America cannot afford to continue exporting its jobs, its money, its technology, so that others can profit at our expense. There is no reason in this world for us to sacrifice so basic an industry as textiles and apparel on the altar of some theoretician's concept of free trade.

The ideal trade world would be a free trade world. I do not deny that for a moment. But to be free, trade must also be fair. When foreign governments subsidize their manufacturers, provide a wide range of incentives and bonuses, which our own domestic manufacturers lack, then we have to wonder where the equity is. And when we are talking about low-wage countries to boot, the problems are further compounded. If anyone calls that free trade, they do not know what they are talking about. All that represents is an arrangement whereby we give the freedom and they get the trade.

The United States is currently involved in trade talks which are of tremendous importance to the future of our American textile industry. Unfortunately, it now appears that the GATT—General Agreement on Tariffs and Trade—multifiber arrangement expected to be ratified later this year will include an annual 6-percent growth in import quotas. This will allow imports to capture an ever larger share of the U.S. market and will mean an alarming erosion of jobs and dollars. The fact of the matter is that our domestic market is expanding at a rate of only 2.9 percent a year, and it cannot tolerate the kind of imports envisioned by the new GATT arrangement.

Because the GATT arrangement sets the boundaries of what we can negotiate in our bilateral agreements with other countries such as Korea or Taiwan, the 6-percent quota level severely impairs the ability of our Government to negotiate bilateral agreements with which we can live.

Now we hear reports that the administration is considering deep tariff cuts in upcoming trade negotiations concerning textiles. This could mean tariff cuts for textiles by somewhere between 44 percent and 60 percent. A 60-percent tariff cut would slash imported fabric prices by 10 percent for woven cloth and almost 13 percent for knit cloth.

Mr. President, it is a demonstrable fact of life that America's textile and apparel industry cannot withstand the shock of that kind of dislocation. Nor should it be asked to, given its fundamental importance to our economy, and its successful efforts to modernize its plant and equipment so that it could remain competitive in a world of fair trade.

For that reason, I ask the Senate to go on record that, first, there should be no reduction of customs duties on textile or apparel or fiber products, and second, such products should be excluded from the Tokyo round of multilateral trade negotiations.

The health and well-being of our economy demands no less. And our textile apparel workers, 2,300,000 strong, deserve no less.

AMENDMENTS SUBMITTED FOR PRINTING

CONSUMER CONTROVERSIES RESOLUTION ACT—S. 957

AMENDMENT NO. 1623

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY. Mr. President, today I am introducing an amendment in the nature of a substitute to S. 957, the Consumer Controversies Resolution Act, and I would like to take just a few minutes of my colleauges' time to explain both the history and scope of this amendment.

Mr. President, I am sure that all of us here today are aware of both the important work and the major contribution which the Committee on Commerce, Science, and Transportation has accomplished in S. 957. Under the chairmanship of my distinguished colleague and friend, the Senator from Washington, the committee has reported a bill which focuses upon a serious problem plaguing

our citizenry: The need for mechanisms which fairly, effectively, inexpensively and expeditiously can be used to resolve daily disputes.

As the hearings on S. 957, as well as hearings held in previous Congresses, have clearly shown, few Americans are involved in cases where the economic stakes are monumental. Rather, they are most often involved in situations and conflicts of relatively minor monetary significance to all but those who must bear the brunt of the loss. Whether it is a dispute with a store over a faulty product or a dispute with a neighbor over damaged property, the significance of the loss is compounded by the total frustration at being unable to resolve the issue fairly and expeditiously.

When a dispute between individuals arises, it is crucial that there be a method by which it can be resolved to the satisfaction of both parties. In the past this resolution has been accomplished through the courts and a growing network of laws. But today that system realistically does not provide either hope or a solution. Congested court calendars, complicated proceedings, complex pleadings and practices, disproportionate personal expense, the necessity for legal representation, and repeated delays result not in justice but in frustration and anger. Too often disputes are left unresolved because citizens do not know how to initiate proceedings, cannot afford the cost in time or money or are discouraged from even seeking assistance because the system seems so overwhelming. Justice is denied to citizens when it is delayed beyond a reasonable time; justice is also denied when access to it is nearly impossible.

What is needed is not another level of suffocating bureaucracy, but a simple method for citizens to resolve their daily disputes. This same idea was recently voiced by Chief Justice Burger:

> The notion that ordinary people want black-robed judges, well-dressed lawyers and fine panelled courtrooms as settings to resolve their disputes is not correct. People with problems, like people with pain, want relief, and they want it as quickly and as inexpensively as possible.

The bill as reported by the committee attempts to achieve these goals, and I have nothing but praise for the depth of concern for the average citizen the committee displayed in its work. Because I share this concern I cosponsored S. 957 with my distinguished colleague from Kentucky, Senator FORD. A number of changes to S. 957 have been suggested which I think strengthen the legislation.

The amendment I have proposed would provide for a Dispute Resolution Resource Center. The Center would undertake comprehensive surveys of existing State and private mechanisms for dispute resolution—a formidable task which S. 957 requires the States to perform. The Center could accomplish this research on a more uniform basis, in a more comprehensive manner and in a more objective and comparative context than could the individual States. The Center would then serve as a national clearinghouse for the information it has gathered and the research it has conducted. The Center would provide a nationwide pool of technical expertise and resources upon which the States could call for the improvement of existing or creation of new mechanisms for its citizens. Lastly, the Center would develop demonstration projects to test new ideas and to experiment with novel approaches to the problem. Such a clearinghouse of information, technical assistance and research capability not only would make it unnecessary for each of the States to duplicate efforts, and possible mistakes, but also would provide needed assistance and information in the most economical way.

S. 957 would create a new office within the Federal Trade Commission to administer the grant program. My amendment would place responsibility for the program with the Department of Jusutice rather than the Fededral Trade Commission, although the Attorney General would be required to consult with the chairman of the commission to identify national priority projects and to establish criteria for the distribution of funds under this act. The Federal Trade Commission has neither the experience nor the resources for administering the grant program authorized by S. 957. More importantly, because of his deep concern for improving the administration of justice, the Attorney General has recently set up an Office for Improvements in the Administration of Justice to develop and coordinate programs such as that envisioned by S. 957. One of the primary goals of that office was to assure access to effective justice for all citizens through the innovative use of various dispute settlement procedures. If a comprehensive and coordinated plan is to be attempted, then I feel that a program as important as that contemplated by S. 957 should be part of that effort, rather than a piecemeal approach which would otherwise have been the result.

My amendment would expand eligibility beyond the consumer area, though this is one of the major problem areas, to include all disputes of citizens involving small amounts of money or otherwise arising in the course of daily life. It is my feeling, and one that I am sure we all share, that if mechanisms are set up which can be used successfully in the resolution of similar types of conflicts, then those mechanisms should be available to the broadest possible base of the population. By doing this we are accomplishing what citizens have a right to expect, that is, that they be given access to informal systems created for their benefit if they chose to use them.

Lastly, the grant program has been modified in a couple of major areas. Grant funds would not be available to the States during the first year. Only the Dispute Resolution Resource Center would be funded in the first year after the act takes effect. This would allow the Center 1 year to collect information and expertise so that when the States in the second year begin to formulate projects for funding the information will be available. The act further provides for the States to assume gradual responsibility for developed programs without requiring them to expend funds for initial project design or experimentation. If we are to insure that access to our legal system is available to all citizens on an equal basis, we must make it financially possible for States to act as laboratories in which to implement reforms where that system is found lacking. This amendment will do just that by providing the financial encouragement and initiative necessary for States to improve existing or to create new dispute resolution mechanisms.

During the second year of the act, State projects would be funded for 100 percent of their cost. Each succeeding year the Federal contribution would decline at rates of 90, 75, and 60 percent of the project costs for programs funded in those years. Fifty percent of the appropriated funds are earmarked as entitlement funds to be distributed equally among the States which submit program applications. These applications can originate from nonprofit or public interest groups as well as various State and local agencies. The States will review the applications submitted and, after deciding which projects best meet the needs of its citizens, will submit these projects in priority order to the Attorney General for funding under the entitlement provisions. Those applications not chosen by the States for entitlement funding will be forwarded to the Attorney General who will use the remaining appropriated funds as discretionary grants for those projects which are innovative or which are addressed to as yet unmet needs of various citizens.

My amendment preserves the purposes and scope of S. 957 while changing it in areas which I feel strengthen its goals and insure its vitality. My staff has worked closely with the staff of the Committee on Commerce, Science, and Transportation, the administration, and the Office for Improvements in the Administration of Justice in order to arrive at a viable solution to this problem which affects all of our citizens. I urge my colleagues to join me in this effort by supporting this amendment.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD together with the short descriptive summary which explains the general scope of the amendment.

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

AMENDMENT NO. 1623

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Dispute Resolution Act".

SEC. 2 FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) for the majority of Americans, mechanisms for the resolution of disputes in-

volving consumer goods and services, as well as numerous other types of disputes involving small amounts of money, are largely unavailable, inaccessible, ineffective, expensive, or unfair;

(2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;

(3) each individual dispute, such as that between a consumer and seller, and landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;

(4) there is a lack of necessary resources or expertise in many areas of the country to develop new or improved consumer and other necessary dispute resolution mechanisms;

(5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;

(6) a major portion of the goods and services which form the underlying subject matter of consumer disputes and disputes involving small amounts of money flows through commerce, and the unavailability of effective, fair, inexpensive, and expeditious means for the resolution of such disputes constitutes an undue burden on commerce; and

(7) while the States and the private sector have made substantial efforts to resolve disputes, and while such efforts should be encouraged and expanded, effective redress will be promoted through a cooperative functioning of both public and private mechanisms with the support and assistance of the Congress.

(b) PURPOSE.—It is the purpose of the Congress in this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms that are effective, fair, inexpensive and expeditious.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(a) "Attorney General" means the Attorney General of the United States, or his designee;

(b) "commerce" means trade, traffic, commerce, or transportation—

(1) between a place in a State and any place in a State and any place outside thereof, or

(2) which affects trade, traffic, commerce, or transportation described in clause (1);

(c) "Commission" means the Federal Trade Commission;

(d) "dispute resolution mechanism" includes, but is not limited to, courts of limited jurisdiction and procedures such as arbitration, mediation, and conciliation which are available to adjudicate, settle, and redress civil disputes involving small amounts of money or otherwise arising in the course of daily life;

(e) "local means of or pertaining to any political subdivision within a State;

(f) "State means any State of the United States, and the District of Columbia;

(g) "State administrator means the individual or government agency which is designated, in accordance with State law, to submit to the Attorney General applications on behalf of the State and other interested parties;

(h) "State system means all of the State-sponsored mechanisms and procedures available within a State for the resolution of consumer disputes and other civil disputes not involving large amounts of money, including, but not limited to, small claims courts, arbitration, mediation, and other similar mechanisms and procedures.

SEC. 4. CRITERIA FOR DISPUTE RESOLUTION MECHANISMS.

(a) CRITERIA.—In order to achieve the purpose of this Act, a dispute resolution mechanism funded in whole or in part under this Act shall provide for—

(1) forms, rules, and procedures which are, so far as practicable, easy for potential users to understand and free from technicalities;

(2) assistance, including paralegal assistance where appropriate, to persons seeking the resolution of disputes;

(3) the adjudication or resolution of disputes during hours and on days that are convenient, including evenings and weekends;

(4) adequate arrangements for translation in areas with substantial non-English-speaking populations; and

(5) reasonable and fair rules and procedures, such as those which would—

(A) insure that all sides to a dispute are directly involved in the resolution of such dispute, and that such resolution is adequately implemented (including promoting effective means for insuring that a monetary award or agreement is promptly paid, and a nonmonetary award or agreement is effectively carried out);

(B) provide an easy way for an individual to determine the proper name in which, and the proper procedure by which, any person may be made a party to a dispute resolution proceeding;

(C) encourage the resolution of disputes by, in addition to adjudication, such informal means as conciliation, mediation, or arbitration;

(D) permit the use of dispute resolution mechanisms by the business community, including, but not limited to, small businesses, corporations, partnerships, assignees, and collection agencies, but only in a manner consistent with the purpose of this Act;

(E) provide for the qualifications, tenure, and duties of persons charged with resolving or assisting in the resolution of disputes;

(F) encourage the finality of the resolution of consumer and other minor disputes; and

(G) provides information about other available redress mechanisms in the event that dispute settlement efforts fail or the dispute does not come within the jurisdiction of the mechanism.

(b) STATE SYSTEM.—Each State is encouraged to develop a State system which is responsive to the criteria established in subsection (a) of this section by providing—

(1) sufficient numbers and types of readily available dispute resolution mechanisms which meet the requirements for such mechanisms set forth in subsection (a) of this section; and

(2) a public information program which effectively communicates to potential users the availability and location of such mechanisms and consumer complaint offices in such State.

SEC. 5. DISPUTE RESOLUTION PROGRAM.

Within 60 days after the date of enactment of this Act, there shall be established within the United States Department of Justice a dispute resolution program, to be administered at the direction of the Attorney General. Such Program shall consist of the Dispute Resolution Resource Center established pursuant to section 6 of this Act and of the financial assistance authorized under section 7 of this Act.

SEC. 6. DISPUTE RESOLUTION RESOURCE CENTER.

(a) ESTABLISHMENT.—There shall be established within the United States Department of Justice, as part of the dispute resolution program established pursuant to section 5 of this Act, a Dispute Resolution Resource Center (hereinafter referred to as the "Center"). As soon as practicable after the creation of such dispute resolution program, the Attorney General shall provide for the creation of the Center and prescribe basic criteria for its operation consistent with the purposes described in subsection (b) of this section.

(b) PURPOSES.—The Center shall—

(1) serve as a national clearinghouse for the exchange of information with respect to dispute resolution mechanisms;

(2) provide technical assistance to State and local governments to improve existent and to create new mechanisms for dispute resolution;

(3) conduct research and development for the improvement of existent and creation of new dispute resolution mechanisms;

(4) undertake comprehensive surveys of the various State systems and, to the extent possible, major private dispute resolution mechanisms within the States, and each such survey shall, to the extent possible, disclose (A) the nature, number, and location of dispute resolution mechanisms within each State; (B) the annual expenditure and operating authority for each such mechanism; (C) the existence of any program for informing the potential users of the availability of each such mechanism; (D) an assessment of the present use of and projected demand for the services offered by each such mechanism; and (E) other relevant data on the types of disputes handled by each such mechanism, such as disputes between consumers and sellers, and landlords and tenants, and any other relevant categories of cases;

(5) identify, after consultation with the Chairman of the Commission, those dispute resolution mechanisms or aspects thereof that most effectively promote the purpose of this Act and that are suitable for general replication, and such mechanisms or aspects thereof shall be certified as "National Priority Projects";

(6) make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purpose of this Act; and

(7) engage in other activities deemed by the Attorney General to be useful and proper in carrying out the purpose of this Act.

SEC. 7. FINANCIAL ASSISTANCE.

(a) AUTHORITY.—As part of the dispute resolution program established under section 5 of this Act, the Attorney General is authorized to provide financial assistance in the form of grants to applicants who have filed, pursuant to subsection (c) of this section, approved applications for the purpose of improving existent or creating new mechanisms.

(b) DUTIES OF THE ATTORNEY GENERAL.—As soon as practicable after the date of enactment of this Act, the Attorney General shall prescribe—

(1) the form and content of the applications for assistance to be submitted under this section;

(2) the time schedule for submission of applications for assistance available under this section;

(3) the procedures for approval of applications submitted under this section, and for notification to each State administrator of all funds awarded to applicants within his State;

(4) the criteria for the distribution of funds received by applicants under this section, consistent with the provisions of section 4 of this Act and after consultation with the Chairman of the Commission;

(5) the form and content of the reports to be filed under this section and the procedures to be followed by the Department of Justice in reviewing such reports;

(6) the uses to which funds received under this section may be put in addition to those set forth under subsection (e) of this section;

(7) procedures for publishing in the Federal Register a notice and summary of approved applications; and

(8) such other regulations as he finds necessary to carry out the provisions of this Act.

(c) ELIGIBILITY REQUIREMENTS.—Nonprofit organizations, agencies of State governments, and units of local governments are eligible to receive assistance under this section. Any such entity desiring to receive grant funds under this section shall submit to the Attorney General, through the State administrator, an application consistent with the criteria set forth in section 4 of this Act and such other criteria as the Attorney General may establish under subsection (b) of this section. Such application shall—

(1) set forth a proposed plan for improving or creating dispute resolution mechanisms for which financial assistance is sought;

(2) identify the person responsible for the administration of the project set forth in the application;

(3) provide for the establishment of fiscal controls and fund accounting of Federal funds paid pursuant to this Act;

(4) provide for the submission of reports in such form and containing such information as the Attorney General may require under subsection (b) of this section;

(5)(A) meet the criteria of the National Priority Projects program of the Center, or (B) identify the project proposed therein as not meeting the designation as a National Priority Project and request funding as an exception thereto in such manner, on such forms, and pursuant to such criteria as the Attorney General may prescribe; and

(6) set forth the nature and extent of participation of interested parties, including consumers, in the development of the application.

(d) STATE ADMINISTRATOR.—The State administrator shall—

(1) provide adequate notice to nonprofit organizations, agencies of State governments and units of local governments of the availability of grant funds, and any other information which the Attorney General may require;

(2) collect all applications submitted under this section, review them to ensure compliance with the submission criteria set forth in or pursuant to section 4 of this Act and this section, and notify those applicants whose applications fail to meet those criteria, in order that necessary corrections may be made and the applications may be resubmitted, if possible within applicable deadlines;

(3) determine, after inviting public comment and after consultation with the Chief Justice of the highest court of that State and the Governor of that State, or their authorized representatives, the order of priority for the State of those applications for projects which are designated as National Priority Projects, in accordance with section 6(b)(5) of this Act;

(4) forward to the Attorney General all applications received by him, including the prioritized listing as provided in subparagraph (3) of this subsection, as well as those applications for projects which are not designated as National Priority Projects, in accordance with section 6(b)(5) of this Act; and

(5) forward to the Attorney General any other relevant information which he believes may assist the Attorney General in the awarding of financial assistance under this section.

(e) USE OF FUNDS.—The purposes for which funds available under this section may be used include, but are not limited to—

(1) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of disputes, including personnel whose function it is to assist in the preparation and resolution of claims and the collection of judgments;

(2) recruiting, organizing, training, and educating personnel described in paragraph (1) of this subsection;

(3) public education and publicity relating to the availability and proper use of dispute resolution mechanisms and settlement procedures;

(4) improvement or lease of buildings, rooms, and other facilities and equipment and lease or purchase of vehicles needed to improve the settlement of disputes;

(5) continuing supervision and study of the mechanisms and settlement procedures employed in the resolution of disputes within a State;

(6) research and development of effective, fair, inexpensive and expeditious mechanisms and procedures for the resolution of disputes; and

(7) sponsoring programs of nonprofit organizations to accomplish any of the provisions of this subsection.

(f) DISTRIBUTION OF FUNDS.—(1) One-half of the funds available for the purpose of making grants under this section shall be reserved for equal distribution among the States which have filed applications for projects which are identified as National Priority Projects and which are approved by the Attorney General. The sum of all grants awarded in any States shall be (A) an amount equal to the entitlement of such State; or (B) an amount up to the entitlement of funds under this paragraph are, in total, in an amount less than such State's entitlement. Funds available under this paragraph shall be awarded to applicants in such amounts as the Attorney General may decide, but only in the order of priority established by the State Administrator.

(2) One-half of the funds available for the purpose of making grants under this section shall be reserved for the awarding of discretionary grants by the Attorney General. Such grants may be made to fund applications which were not funded under paragraph (1) of this subsection, to applications for projects which are not designated as National Priority Projects in accordance with section (6)(b)(5) of this Act, or to research and demonstration projects or other activities that will encourage innovation in order to effectuate the purpose of this Act. The Attorney General shall, in consultation with the Chairman of the Commission, establish criteria, terms and conditions for awarding grants under this paragraph. In awarding grants under this paragraph, the Attorney General shall consider, among other factors, population density and the financial need of States and localities in which applicants for funds available under this section are located.

(g) PAYMENTS TO GRANTEES.—When the Attorney General has approved an application submitted under subsection (f)(1), he shall pay to the applicant the Federal share of the estimated cost of the approved project. The Federal share of the estimated cost of projects funded pursuant to applications submitted under subsection (f)(1) shall be 100 percent for the first fiscal year in which funds are appropriated for grants under this section; 90 percent for the second fiscal year in which funds are appropriated for grants under this section; 75 percent for the third fiscal year in which funds are appropriated for grants under this section; and 60 percent for the fourth fiscal year in which funds are appropriated for grants under this section. When the Attorney General has approved an application under subsection (f)(2), he shall pay to the applicant the amount which he in his discretion determines appropriate. The aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for such purposes shall be maintained at a level which does not fall below the average level of such expenditures for the last 2 fiscal years preceding the date of application for funding. Payments made pursuant to this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, but shall not be used to compensate, directly or indirectly, the State administrator or for any other State administrative expense.

(h) SUSPENSION OF PAYMENTS.—Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any recipient of a grant under this subsection, finds that the project for which such grant was received no longer complies with the provisions of this Act, or with the relevant application as approved by the Attorney General, the Attorney General shall notify such recipient of his findings and no further payments may be made to such recipient by the Attorney General until he is satisfied that such noncompliance has been, or promptly will be, corrected. However, the Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such recipient and which is not involved in the noncompliance.

(i) No funds for assistance available under this section shall be expended until one year after the date of enactment of this Act.

SEC. 8. RECORDS, AUDIT, AND ANNUAL REPORT.

(a) GENERAL.—Each recipient of assistance under this Act shall keep such records as the Attorney General or his designee shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the project or undertaking supplied by other sources, and such other records as will assist in effective financial and performance audits. This provision shall apply to all recipients of assistance under this Act.

(b) AUDIT.—The Attorney General or his designee shall have access for purposes of audit and examination to any relevant books, documents, papers, and records of the recipients of financial assistance under this Act.

(c) COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of his duly authorized representatives, shall until the expiration of 3 years after the final year of the receipt of any financial assistance under this Act, for the purpose of financial and performance audits and examination, have access to any relevant books, documents, papers, and records of recipients of such assistance under this Act.

(d) ANNUAL REPORT.—The Attorney General, in consulation with the Chairman of the Commission, shall submit to the President and Congress on or before the 365th day following the enactment of this Act, and on or before February 1 of each succeeding year, a report on the administration of this Act during the preceding fiscal year. Such report shall include but not be limited to—

(1) a list of all grants awarded;

(2) a summary of any actions undertaken in accordance with section 7(h) of this Act;

(3) a listing of the projects designated as National Priority Projects for that year and the types of other dispute resolution mechanisms which are being created, and, to the extent possible, a statement as to the success of all such mechanisms in achieving the purpose of this Act;

(4) the results of financial and performance audits conducted pursuant to this section; and

(5) an evaluation of the effectiveness of the Center in implementing this Act, including a detailed analysis of the extent to which the purpose and goal of this Act have been achieved, together with any recommendation for additional legislative or other action.

SEC. 9. AUTHORIZATIONS FOR APPROPRIATIONS.

(a) To carry out the purposes of section 6 of this Act, there are authorized to be appropriated to the Attorney General not to exceed $3,000,000 for the fiscal year ending September 30, 1978; not to exceed $3,000,000 for the fiscal year ending September 30, 1979; not to exceed $3,000,000 for the fiscal year ending 1980; not to exceed $3,000,000 for the fiscal year ending September 30, 1981; and not to exceed $3,000,000 for the fiscal year ending September 30, 1982.

(b) To carry out the purposes of section 7 of this Act, there are authorized to be appropriated not to exceed $15,000,000 for the fiscal year ending September 30, 1979; not to exceed $15,000,000 for the fiscal year ending September 30, 1980; not to exceed $15,000,000 for the fiscal year ending September 30, 1981; and not to exceed $15,000,000 for the fiscal year ending September 30, 1982. Such sums shall remain available until expended.

DISPUTE REVOLUTION ACT—DESCRIPTIVE SUMMARY

The purpose of the Dispute Resolution Act is set forth as being to provide federal assistance to the States by according to all persons convenient access to dispute resolution mechanism that are effective, fair, inexpensive, and expeditious. The Bill makes findings that mechanisms for the resolution of disputes of relatively minor magnitude are, for the majority of Americans, largely unavailable, inaccessible, ineffective, expensive, or unfair. It is further found that while individual disputes may be of relatively small magnitude, taken collectively such disputes are of enormous social and economic consequence. That constitutes a major problem to which the Bill is designed to respond.

The Bill establishes within the Department of Justice a Dispute Resolution Program. The program has two components. The first is the creation of a dispute resolution resource center. The center has five primary functions. The first is to serve as a national clearinghouse for the exchange of information concerning dispute resolution mechanisms. The center would gather together all available information from the States, the private sector, and the academic community, and would make such information available to States, cities, localities, and private groups interested in providing improved dispute resolution services.

The second function is to provide technical assistance to State and local governments in order that they may improve existing dispute resolution mechanisms and create new ones. The third function is to conduct research and development for the improvement of existing dispute resolution mechanisms and the creation of new ones. Because of its clearinghouse function, the resource center would be in a position to identify what research needs to be done and how it may best be conducted. The fourth function is the undertaking of surveys of the minor dispute resolution systems of the various States and the private sector within the States.

The fifth function is for the center to identify those dispute resolution mechanisms or aspects thereof that are most effective and that are suitable for general replication. Such mechanisms or aspects thereof will be certified as national priority projects. Through the resource center, the federal government would provide a service to the States and the private sector which they cannot provide for themselves. Through this service it would enable the States to substantially improve their dispute resolution mechanisms for matters of relatively minor dimensions. The center would be funded at $3 million per year.

The second component of the program would be to provide to the States $15 million per year in seed money grants to spur the improvement of minor dispute resolution procedures. Each State would submit one set of applications through whichever state official the State chose to designate, That official would receive applications from State and local governmental agencies and nonprofit organizations, establish an order of priority for the applications (after consulting with the Chief Justice and Governor of the State), and forward the package to the Department of Justice. No money for the program could be used to pay for any State administrative costs.

One half of the grant money would be divided evenly among all the States and the District of Columbia and would be awarded to those applications that: (1) would implement National Priority Projects, and (2) are given the highest State priorities by the State official responsible for the application process.

The other half of the grant money would be awarded at the discretion of the Attorney General either for applications that implement National Priority Projects or for applications which identify themselves as not implementing National Priority Projects, but which represent that they warrant funding as exceptions thereto. The Department will prepare regulations setting forth criteria for the making of the discretionary awards.

The Bill further provides that the federal share of projects funded under the entitlement portion of the grant program would be 100% the first year of the Bill, 90% the second year, 75% the third year, and 60% the fourth year. This provision is drafted in terms of the year of the Bill rather than the year of a given project in order to prevent States from filing applications for new projects in all of the four years so as to continuously reecive 100% funding. The discretionary grant funding will be at the percentage level the Attorney General determines to be appropriate.

Finally, the Bill provides that the grant money would not be available until one year after the effective date of the bill in order to give the resource center time to collect an adequate body of information and to develop a technical assistance capability.

NOTICES OF HEARINGS

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary,

COMMITTEE ON THE JUDICIARY

I desire to give notice that a public hearing has been scheduled for Wednesday, November 16, 1977, at 10:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nominations:

Monroe G. McKay, of Utah, to be U.S. Circuit judge for the 10th circuit vice David T. Lewis, retiring.

Robert F. Collins, of Louisiana, to be U.S. district judge for the eastern district of Louisiana vice Alvin B. Rubin, elevated.

John L. Kane, Jr., of Colorado, to be U.S. district judge for the district of Colorado vice Alfred A. Arraj, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Committee.

CROP INSURANCE

Mr. STONE. Mr. President, the chairman of the Senate Agriculture Subcommittee for Agricultural Production, Marketing and Stabilization of Prices, Senator HUDDLESTON, at my request, has scheduled 2 days of crop insurance hearings in the State of Florida.

The first day of hearings will be held in Lake City, Fla., on November 28, 1977, at 10 a.m. The hearing will be held at the Agricultural Center in Lake City. On November 29, 1977, there will be a hearing in Sebring, Fla., at the Highland County Courthouse. The hearing will start at 2 p.m.

Written testimony of any length will be accepted. Oral testimony will be limited to 10 minutes for each witness. Anyone interested in testifying at either of these public meetings should contact the hearing clerk, Senate Agriculture Committee, 322 Russell Senate Office Building, Washington, D.C., 20510, 202/224–2035.

AMENDMENTS SUBMITTED FOR PRINTING

SOUTH AFRICA RESOLUTION—S. CON. RES. 60

AMENDMENT NO. 1622

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the concurrent resolution (S. Con. Res. 60) relating to South Africa.

POSTPONEMENT

Mr. NELSON. Mr. President, I would like to notify the Senate that the hearing of the Select Committee on Small Business scheduled for November 7 in St. Paul, Minn., has been postponed. A date will be announced in the future for the hearing.

ADDITIONAL STATEMENTS

STEPS AGAINST TERRORISM

Mr. CASE. Mr. President, international terrorism continues to plague the world. The scope of the problem is staggering.

When the Senate Foreign Relations Subcommittee on Foreign Assistance held hearings on the issue in September, a staff study found that about 180 groups around the world "claimed responsibility" for acts of terrorism.

At least some of the groups, ranging from the Japanese "Red Army" to the Palestinian and German terrorists, have

been collaborating in an informal network.

Figures compiled by the CIA indicated that between 1968 and 1976, there were more than 1,150 acts of international terrorism, with at least 391 involving U.S. citizens or property. About 800 persons have been killed and another 1,700 wounded in the various incidents. A Library of Congress summary of terrorist and terrorist-related developments since 1969 covers 23 single spaced pages.

Recent incidents include the 6-day hijacking ordeal in which the passengers of a Japan Air Lines plane were finally taken to Algeria and freed October 2 in exchange for the release of six colleagues of the Japanese "Red Army" terrorists and a $15 million ransom. The terrorists were reported to have been released from custody by Algeria.

On the heels of that incident, a West German Lufthansa airliner was hijacked by four persons—apparently Palestinians—and taken to Somalia. There, after a grueling ordeal for the passengers and the execution of the pilot by the hijackers, the passengers were freed in a commando attack October 18 by a specially trained unit of West German police.

That operation has been compared with the daring July 1976, rescue by Israel of passengers of an Air France jet hijacked to Entebbe, Uganda. But there was one important and hopeful difference. At Entebbe, Ugandan Dictator Idi Amin has supported the terrorists, even using his troops to guard the passengers.

In Somalia, the government assisted the German rescue, reversing, at least in this instance, its prior policy supportive of terrorism.

It may be that other nations which have assisted terrorist groups in the past are coming to realize that they too are vulnerable. For example, there have been a number of assassination attempts recently against Syrian officials.

In the Western world, there has been growing cooperation. The United States and its European allies and Israel have been exchanging information on training and counter-terror techniques. The Pentagon recently disclosed the training of special military units for rescue missions.

But the key problem remains—how to prevent the incidents from happening in the first place.

The United Nations and the authorities controlling airports and airline traffic have got to tighten security procedures.

One of the weaknesses appears to be lack of proper screening. Transportation Secretary Brock Adams told a meeting in Montreal yesterday of the Council of the International Civil Aviation Organization (ICAO) that 20 of the 28 airline hijackings this year can be attributed to lack of proper screening of passengers.

He suggested international agreements to insure that "all passengers and all carry-on baggage are screened everywhere and every time, and this should apply to all airline flights, foreign and domestic."

Even if these procedures are implemented, it is still essential that the international community continue its efforts to close off the sanctuaries used by terrorists in the past.

A small sign of hope emerged yesterday at the United Nations where the General Assembly approved a resolution condemning aircraft hijackings and the taking of hostages to force the release of imprisoned terrorists.

The resolution is noteworthy only because the U.N. has been so wayward in the past in facing up to the issue. Unfortunately, even this mildly worded the resolution was the subject of tinkering by anti-Israel delegates who approve the German rescue of their hostages but disapprove the Israeli rescue of Jewish hostages held captive with the assistance of Ugandan Dictator Idi Amin, a man not known for his respect for human life.

There is no easy or direct way to exert pressure on some of the nations which aid and abet terrorists—they do not receive foreign aid from us. But we must continue doing what we can to ostracize them; if necessary, paying the price of reduced trade and profits to close off havens for terrorists.

We also should give serious consideration to having the U.S. Government issue travel advisories warning of airports which do not meet security standards. The possible impact on the local tourist trade might help to prod negligent governments into enforcing security precautions. Another proposal, contained in S. 2236, which I joined in sponsoring, would permit suspension of commercial air service to countries which aid and abet terrorists.

The Senate Foreign Relations Subcommittee on Foreign Assistance and other congressional committees already have held preliminary hearings on these and additional proposals with a view to passage of new legislation next year. It will be none too soon.

Mr. President, I ask unanimous consent to print in the RECORD news articles on the U.N. resolution, the text of the resolution itself, Secretary Adams' speech to ICAO, and excerpts from President Carter's meeting last week with non-Washington newspaper columnists.

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

U.N. ASSEMBLY CALLS UPON GOVERNMENTS TO PROSECUTE OR EXTRADITE HIJACKERS

(By Kathleen Teltsch)

UNITED NATIONS, N.Y., November 3.—The General Assembly adopted a resolution today condemning air piracy and calling on governments to take steps to tighten security and to agree to prosecute or extradite hijackers.

The resolution was approved without a formal vote but by consensus of the Assembly members.

While a number of Western nations here hailed its approval as a significant move in encouraging governments to improve civil aviation safety, there were others who publicly or privately said it was a weak response to the critical situation caused by the rising number of air hijackings.

PILOTS THREATENED STRIKE

This view was also reflected in the reactions of the International Federation of Airline Pilots Association and the United States Airline Pilots Association. While welcoming the Assembly action, both said that the effect would be limited since a resolution does not have the "force of law." But they expressed the hope that the 149 governments would abide by the spirit of the resolution.

The international pilots' group, representing 56,000 members in 86 countries, had threatened two weeks ago to call a two-day strike unless forceful action was taken by the United Nations against air piracy. The move was made after the pilot of a Lufthansa jetliner hijacked Oct. 13 was killed.

The strike was postponed to await the United Nations response, and the pilots' group was allowed to present its case in a speech to the Assembly.

William Murphey, deputy president of the pilots' group, said tonight that it was decided there would be no strike action now. He also said that although he welcomed the Assembly action, he would have preferred a resolution with "more punch."

A key paragraph in the resolution calls on governments to accept three conventions drafted by the International Civil Aviation Organization. These are the 1963 Tokyo Convention against offenses committed on aircraft in flight, ratified by 88 nations; the 1970 Hague Convention obligating governments to punish hijackers severely, accepted by 79 nations, and the 1971 Montreal Convention, agreed to by 75 nations, covering attacks aboard aircraft such as bombings or sabotage.

The antihijacking resolution was the outcome of a joint initiative by Austria, Australia and Nordic countries, and it was quickly taken up by many more members.

The original text was modified to meet objections from Arab and other third world countries. One change, directed against Israel, made the text say that actions against hijacking should be "without prejudice to the sovereignty or territorial integrity of any state."

The intent was to signify approval of the West German raid that rescued the hostages aboard the hijacked Lufthansa airliner at Mogadishu, Somalia, last month, since the Somalis consented to the action, but to disapprove of Israel's rescue of hostages held at Entebbe Airport in Uganda in July 1976.

African members brought a complaint over the Entebbe case to the Security Council but were unable to muster the support needed to obtain a condemnation of Israel.

During today's Assembly debate on the resolution, Chaim Herzog, the Israeli delegate, criticized the changes made in the text, calling it a "compromise with the forces that back and finance acts of terror."

Calling the resolution weak and disappointing, the Israeli delegate remarked: "The International Pilots' Association has been taken for a ride."

UNITED STATES CALLS FOR BETTER SCREENING TO AVERT AIR PIRACY

(By Richard Witkin)

The United States, citing the recent rash of hijackings, urged the International Civil Aviation Organization yesterday to bolster air agreements to insure security screening of passengers and hand baggage on all airline flights, domestic and foreign.

In a speech to the organization's 30-nation council in Montreal, Transportation Secretary Brock Adams said a survey indicated that 20 of the 28 hijackings so far this year could be "attributed to failures in passenger screening procedures."

It is significant to note," Mr. Adams added, "that, since strengthened U.S. security went into effect at the start of 1973, not a single hijacking incident has occurred attributable to failure to detect guns and weapons in the screening process."

STRONGER SAFEGUARDS SOUGHT

Saying he was speaking on behalf of President Carter, the Cabinet officer put forward a package of proposals for improving safeguards against hijacking, sabotage and related aviation crimes.

In addition to the upgrading of screening procedures, they called for: improving measures to segregate aircraft threatened with hijacking or sabotage; better exchange of technical data on aviation security; expansion of security seminars, and wider adherence to the Hague and Montreal conventions of 1970 and 1971.

The I.C.A.O., an agency with special relations to the United Nations, has 141 members, including the Soviet Union, China, and virtually every other nation in the global air network. It seeks to rise above political frictions and promote technical cooperation in the interest of safe, efficient international air travel and commerce.

LIMITED PROGRESS FOR NOW

However, politics has slowed progress in some important areas, including universal tightening of security. The dominant view in the aviation community is that, while efforts by the civil aviation agency and the United Nations are to be welcomed as perhaps leading to substantial long-term benefits, only limited benefits can be expected for now.

The prime hope for near-term results is placed in the enactment of new Congressional legislation and possible parallel moves by major powers. Essential to such steps, it is felt, would be mechanisms for imposing penalty on nations that actively or passively aid and abet hijackings and other crimes.

A major move in this direction was made on Oct. 25 when Senator Abraham A. Ribicoff, Democrat of Connecticut, introduced a bill aimed at combating not only air crimes but also all varieties of international terrorism.

HEARINGS DUE IN JANUARY

The bill, co-sponsored by eight senators, has the enthusiastic support of the Air Lines Pilots Association and the Professional Air Traffic Controllers Organization. Mr. Ribicoff had hoped to begin committee hearings on the legislation next week. But, because the Congress is so tied up with energy bills, hearings on the proposed Anti-Terrorism Act have been postponed until January.

In aviation, the proposal goes far beyond legislation now on the books. The central idea would be a requirement for the President to develop and maintain a list of countries that "aid or abet international terrorism." Both the President and the Congress would have power to add or delete names.

Once a country was put on the list, a series of punitive measures, or sanctions, would be imposed on it. The President would be required to declare the country dangerous to live in. All commercial air service between that country and the United States would be halted. And passengers, baggage and planes that had recently been in that country would not be allowed into the United States unless they had been thoroughly searched in a third country.

Because of the timing, it looked as though the Ribicoff bill might have been a direct result of the recent upsurge in air piracy, particularly the hijacking that ended in the dramatic rescue of 86 hostages on a West German airliner in Somalia.

But the Ribicoff staff had been working on the terms of the bill for about a year. The recent hijackings did serve, however, to fix national attention on the issue and provide a favorable climate for pushing the measure through the Congress. Whether the climate will remain favorable when the bill is taken up next year remains to be seen.

Among the other provisions of the Ribicoff bill are these: No export licenses would be granted for the sale of certain munitions to countries that have been publicly listed as aiding and abetting terrorism. The sale or transfer of nuclear facilities, material or technology, to such countries would be prohibited.

In addition, the President would be required to keep a public list of foreign airports, or other facilities deemed unsafe for Americans to use. Flights starting in the United States would be banned from airports on the "dangerous" list until they met security standards spelled out in the Ribicoff bill.

U.N. CONDEMNS HIJACKINGS; PILOTS CALL OFF STRIKE

(By Milton R. Benjamin)

UNITED NATIONS, November 3.—The U.N. General Assembly condemned airline hijackings today in a resolution that urged all nations to cooperate and prevent terrorists from using hostages as a means of "extorting" the release of political prisoners.

The consensus reached by the 149-nation assembly represented the strongest anti-hijacking measure put on record here.

It also symbolized the tacit endorsement of a West German military action against a recent hijacking of a Lufthansa airliner. The West Germans, in cooperation with Somalia and several other countries, freed all hostages aboard the hijacked craft sitting at the Mogadishu airport in Somalia.

But the document implicitly condemned a similar action by Israel in July 1976, when Israeli commandos staged a raid at the Entebbe airport in Uganda to free hostages in a hijacked Air France airliner.

Today's resolution was adopted without a vote. Although it is not binding, it is likely to put pressure on countries that have been granting asylum to air pirates and perhaps lead to other measures by the international community to make commercial aviation safer.

Among those who assented to today's resolution were nations that formerly provided haven for hijackers such as Algeria, Libya, and South Yemen. Only Cuba dissociated itself from the resolution.

Despite the consensus, skeptics here immediately noted that about one-half of the U.N. members have yet to ratify three existing international treaties designed to curb interference with commercial aviation.

The treaties, drafted under the auspices of the International Civil Aviation Organization, were signed at Tokyo in 1963, the Hague in 1970 and Montreal in 1971.

The International Federation of Airline Pilots, which had threatened after last month's Lufthansa hijacking to stage a 4-hour worldwide strike unless the United Nations acted on the problem of air terrorism, immediately announced in a terse statement that it had decided not to "take any action at this time."

The resolution was adopted by the General Assembly not by a formal vote, but by a more unusual procedure referred to as consensus. Cuba, the sole dissenter, noted that the pilot's association had not "thought it necessary to mobilize the General Assembly" a year ago when a Cuban airliner was blown up over the Caribbean.

The U.S. representative to the General Assembly, Rep. Lester L. Wolff (D-N.Y.), welcomed the United Nations action as a "major step forward in the collective fight against hijacking."

The resolution, however, fell far short of the pilot's demands that all countries ratify the Tokyo, Hague, and Montreal conventions, which would effectively eliminate safe havens for hijackers.

"The international pilots association has been taken for a ride," Israeli Ambassador Chaim Herzog declared in a statement to the General Assembly. "The resolution is a disappointing one. It is weak."

The resolution adopted by the General Assembly today had these elements:

It reaffirmed the U.N. condemnation of hijacking and all other acts of violence against aircraft, whether committed by individuals or states.

It called on member countries to take all necessary steps to prevent such acts, including the improvement of airport security.

It called on all countries to take joint and separation actions while respecting the sovereignty and territorial integrity of any nation, to see that the hostages are not used "as a means of extorting advantage of any kind."

It appealed to all nations who have not done so to ratify the three hijacking conventions.

Despite the unprecedented consensus, a number of delegates whose countries have traditionally given asylum to hipackers said privately that their countries had no intention of ratifying the conventions—or changing their policies.

TEXT OF ANTIHIJACKING RESOLUTION

TEXT OF ANTIHIJACKING RESOLUTION ADOPTED BY U.N. GENERAL ASSEMBLY, NOVEMBER 3, 1977

Recognizing that the orderly functioning of international civil air travel under conditions of guaranteeing the safety of its operations is in the interest of all peoples and promotes and preserves friendly relations among states,

Recalling Resolution 2645 (XXV) of 25 November 1970, in which it recognized that acts of aerial hijacking or other wrongful interference with civil air travel jeopardize the life and safety of passengers and crew and constitute a violation of their human rights,

Recalling also its earlier Resolution 2551 (XXIV) of 12 December 1969 as well as Security Council Resolution 286 (1970) of 9 September 1970 and the Security Council decision of 20 June 1972.

1. Reiterates and reaffirms its condemnation of acts of aerial hijacking or other interference with civil air travel through the threat or use of force, and all acts of violence which may be directed against passengers, crew and aircraft whether committed by individuals or states;

2. Calls upon all States to take all necessary steps, taking into account the relevant recommendations of the United Nations and the International Civil Aviation Organization, to prevent acts of the nature referred to in paragraph 1 above, including the improvement of security arrangements at airports or by airlines as well as the exchange of relevant information and to this end to take joint and separate action, subject to respect for the purposes and principles of the Charter and the relevant United Nations declarations, covenants and resolutions, in cooperation with the United Nations and the International Civil Aviation Organization to ensure that passengers, crew and aircraft engaged in civil aviation are not used as a means of extorting advantage of any kind;

3. Appeals to all States, which have not yet become parties, to give urgent consideration to ratifying or acceding to the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970, and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed at Montreal on 23 September 1971;

4. Calls upon the International Civil Aviation Organization to undertake urgently further efforts with a view to ensuring the security of air travel and preventing the recurrence of acts of the nature referred to in paragraph 1 above, including the reinforcement of Annex 17 to the Convention on International Civil Aviation;

5. Appeals to all Governments to make serious studies of the abnormal situation related to hijacking.

STATEMENT OF U.S. SECRETARY OF TRANSPORTATION, BROCK ADAMS, BEFORE THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, NOVEMBER 3, 1977

I am appreciative of the opportunity to appear before you today at this special meeting of the Council of the International Civil Aviation Organization. President Carter has asked that I make known the views of my government in connection with the need for further actions to assure improved air transportation security. My statement is brief, but its brevity is in no way indicative of a lack of concern; on the contrary, time is short and action is needed.

This organization has done much in the past to reduce the threat caused by hijacking and acts of terrorism to civil aviation; together with all member States cooperating, we can do much more to assure the safety of air travel.

I know that you are considering additional steps that can be taken, including those under discussion here today, and I am mindful of the resolutions passed by the assembly of ICAO last month.

Specifically, the resolution on technical measures for safeguarding international civil air transport against acts of unlawful interference requests the council keep up to date and develop as necessary appropriate standards and recommended practices. It urges States to ensure that it is possible for facilities to be made available at their airports for the inspection and/or screening, as required, of passengers and their hand baggage on international air transport services. During its consideration of this resolution and, particularly in light of the recent hijackings, the council may also wish to consider a directly related matter. I would ask that, in its discussion of this problem, council give consideration to amending annex 9 of the Chicago Convention, particularly with respect to strengthening standard 9.2 of chapter 9, to ensure that all passengers and all carry-on baggage are screened, everywhere and every time, and that this should apply to all airline flights, foreign and domestic.

From information available to me, it appears that of the 28 airline hijackings which have taken place so far this year, 20 can be attributed to failures in passenger screening procedures, either failure to screen at all, or inadequate screening. It is significant to note that, since strengthened U.S. security measures went into effect at the start of 1973, not a single hijacking incident has occurred attributable to failure to detect guns and weapons in the screening process.

We recommend for your consideration also the strengthening of certain portions of annex 9, such as those recommended practices which provide:

(1) For the segregation and special guarding of an aircraft under threat of hijacking or sabotage, and

(2) For the provision of law enforcement support for aviation security.

Ready availability to States of technical information on methods for preventing acts of unlawful interference with civil aircraft is essential to adequately combat such acts. Therefore, I would urge council to further encourage the exchange of information between ICAO and contracting States related to safeguarding international civil aviation by raising the existing recommended practice dealing with this subject to a standard.

The establishment of these and certain additonal recommended practices as standards should contribute substantially to improved safety for air travellers. I would urge this organization to continue its efforts to assure that its members effectively implement all these security standards.

I know that every member of this council is aware of the importance of another resolution adopted by the recent assembly, that pertaining to the "strengthening of measures to suppress acts of unlawful interference with civil aviation;" my government has urged, and continues to urge, all countries to adhere to the convention for the suppression of unlawful seizure of aircraft, the Hague Convention of 1970, and the convention for the suppression of unlawful acts against the safety of civil aviation, the Montreal Convention of 1971. In connection with the latter convention, the Montreal Convention, the U.S. administration is submitting to the Congress the necessary legislation to adjust U.S. laws for the implementation of this convention.

The president of this council, Dr. Assad Kotaite, in his statement before the 32nd session of the United Nations General Assembly on October 26th indicated that ICAD has already held two seminars in the Far East and Pacific region to assist in the implementation of aviation security programs. I would like to urge that this excellent work be continued and that ICAD increase the the number of such seminars and expand the number of geographical areas in which they are held. We also noted that a regional technical assistance project on aviation security was presently underway in the Far East and Pacific region, covering six countries. In this connection, my government stands ready to assist ICAD in any appropriate way in this program and will continue to provide assistance, within the limits of existing resources, to those nations which request it.

In short, Mr. President, I urge the council to take these steps: First, give the highest priority to dealing with the two aviation security resolutions adopted by the 22nd ICAD assembly; second, upgrade from recommended practices to standards those provisions dealing with: passenger and baggage screening; segregation of aircraft under threat; and the exchange of information on technical aspects of security matters. Third, increase and expand aviation security seminars.

The problem of unlawful interference with civil aviation is worldwide in scope. It is therefore appropriate that this body deal with this increasingly severe threat. I appreciate the opportunity of appearing before you today and I thank you for your attention. My government looks forward to working with you and all ICAD member states in developing the procedures and taking the actions needed to eliminate this unacceptable threat to air transportation and to air travellers.

Thank you, Mr. President.

EXCERPT FROM PRESIDENT CARTER'S INTERVIEW LAST WEEK WITH NON-WASHINGTON JOURNALISTS

Question: In dealing with terrorists, is the posture of the U.S. Government going to be one of complete noncooperation with the terrorists, such as has been developed in Japan, West Germany and other nations? And also I understand you disagree with the U.N. resolution insofar as how far it goes; you feel it should be much stronger. Can you tell us a little more about your position on that?

The President: Yes. We have taken a position, I would say, among the strongest of any nation against terrorism, seeking to get the United Nations to agree with us, on all nations refusing to accept aircraft that have been hijacked, for instance, and also agreeing to return the hijackers or terrorists to the country from which they committed the terrorist act.

I believe we will have some success, particularly because of the high publicity that accrued to the recent Lufthansa hijacking that terminated, as you know, in Somalia. We encouraged the Somalian Government to cooperate with the West Germans. We worked closely with the West Germans in providing the information we had about the terrorist organizations.

We learned from them and from the Israelis, for instance, after they had an actual experience in rescuing kidnapped passengers from planes.

It is a matter that concerns all countries. And recently we have had some indications, through United Nations statements and otherwise, that the Soviets are moving toward a more responsible position in deploring and working against terrorism.

There are still some countries, like Libya and Algeria, for instance, who feel they ought to open their borders to terrorists and to let them land. And the position they take publicly is they save lives by doing so; that there has to be some place for the plane to land once it is hijacked.

We are also cooperating and trying to insure that the very strict security measures that we take in our own country of examining people as they go into the airport loading facility is mirrored around the world.

So we are doing everything we can on a unilateral basis, also on a multilateral basis through the United Nations and through the airline arrangements that we have with cooperative countries, to hold down this particular form of terrorism.

We recognize there are other forms of terrorism, but I was responding just to that particular part because that was part of your question.

THE FINKELSTEIN LECTURES

Mr. PELL. Mr. President, on Monday, October 24, the Honorable Joseph Duffey, Chairman of the National Endowment for the Humanities, delivered one in a series of the Finkelstein Lectures at the University of Rhode Island. His topic was "General Education: The Role of the Humanities," a thoughtful exposition of the role of the humanities in general education. One of his central concerns was the question of whether the humanities should pursue excellence as a sole priority, or whether they should also be concerned with the question of access.

As the chairman of the Subcommittee on Education, Arts and Humanities, I have long been concerned that the public be broadly involved in artistic and humanistic endeavors, that they not be limited to the select few. Chairman Duffey reflects my sentiments, that the public has a right to learn and know. As we increasingly expand man's leisure time, we must simultaneously seek to expand his horizons so that he can use that time creatively and constructively.

In the words of Chairman Duffey:

To the preparation of students for their lives as productive members of this society, the humanities adds not merely habits of mental acuity but priceless attributes of self-awareness and social responsibility. They make of the educational process an initiation into the exercise of moral character in addition to the acquisition of knowledge and skills.

I recommend the entire address to my colleagues, and ask unanimous consent that it be printed in the RECORD.

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

GENERAL EDUCATION: THE ROLE OF THE HUMANITIES

(By Joseph Duffy)
Chairman, National Endowment for the Humanities

When Timothy Dwight, President of Yale, passed through this area in 1800, he noted that South Kingstown was a prosperous farming area—and I see it still is.

But President Dwight also remarked that the inhabitants were "generally uncouth, their manners tending to intemperance, their houses unkempt." "Schools in this state," he wrote, "can hardly be said to exist."

I'm glad to be able today to retract completely such scurrilous impressions! I am also delighted to be here with you.

I am honored by the invitation to participate in your effort to redefine the role of general education at the University of Rhode Island.

We are committed to a similar task at the National Endowment for the Humanities trying to, as your documents here put it, make "The communication of a sense of civilization" a priority among Americans.

You are revising a curriculum, and I am overseeing a federal agency; many of the problems you have addressed here today, we have in common.

We share such questions as:

"How shall we define general education"

"What are the humanities?"

"Shall we pursue excellence as a single priority or shall we be concerned as well with the question of access: Of the public's right to learn and to know?"

These inquiries are the very essence of the humanistic tradition. They are at the heart of the questions which have shaped our culture for thousands of years.

As a way of looking at the nature of these questions, we can compare them with the technical problems we face at the same time.

When we address the issues of curriculum design in the technical sense we are first inclined to look for parallel cases elsewhere. We ask friends from graduate school days, read professional journals, confer (endlessly)—and more and more these days, we appeal to electronic data retrieval systems to find models for our case.

With technical problems our effort is to locate gaps in our knowledge:

How to schedule courses and requirements. How to staff them.

As little time as possible is spent at this point in asking whether the whole enterprise is worth something and to whom.

Our fundamental concern is getting the right information, getting the data, gathering the fruits of a system of experts and consultants.

As you have no doubt become aware, however, the technical problems and implementation do not exhaust the subject of curriculum revision.

No matter how much information we have, or how much we refine it, there always remain the nagging conflicts, the gaps which no technical data can fill: between process and product, between excellence and equality.

These are the questions that do not get easier the more we know about them, which are problems not capable of total resolution.

The temptation in a society such as ours which prizes efficiency is to bracket these more profound questions of meaning and purpose and set them aside as we go about our business.

No data bank is available to provide answers to these questions.

The requisite tools seem to be those qualities of mind we call wisdom, judgment, experience and intuition.

But this is a great irony. If we had wisdom and judgment enough to use in solving our problems, then presumably we would not have such problems.

How do we get judgment—and how do we distinguish it from prejudice, irrational instinct, and popular fancy?

This is, I believe, where we touch the role of the humanities. It is not an easy process, to be sure, and one which can never be completed. But there is no sounder way to confront the crucial moral and philosophical issues we face than to see these questions in the light of the historical culture we share as a people.

How are we to explore these problems in a humanistic way?

Take the issue of Excellence vs. Equality. In some sense, this is only a variant of the age-old problem of the place of justice in the political community. Might not, therefore, Thucydides and Aristotle, Machiavelli and Adam Smith, John Rawls and Robert Nozick be as helpful as commentators on our situation as contemporary university administrators?

If we are concerned with understanding how communities of scholars respond to situations of crisis, would not our insight be aided by looking at the experience of European universities during the Reformation or African universities during the 1960's?

We do not, I think, denigrate the humanities, when we see them in such intimacy with the problems we meet in our everyday lives.

The richness of our culture is too important to be merely an ornament of our lives, to be worn as a badge of social or moral superiority. Nor is the tradition we uphold merely a refuge from the world, a private stock of inspiration or solace to help us withstand the pressures of social life.

The humanities can and ought to claim a more active, public role as a living, breathing confrontation with the ways we make sense of human life.

The benefits of humanistic learning cannot of course be measured in simple utilitarian or instrumental terms. Understanding our problems better is not necessarily the fastest or most economical way of solving them.

But the benefits are nonetheless substantial, and I want to take some time and some care to outline my view of them for you.

What are the benefits of the humanistic perspective? Let me suggest five distinct but related contributions to learning.

For one thing, the perspective of the humanities may refine and sharpen our questions by setting them in the contest of the experience of the past.

When we go to the great thinkers, the lessons they teach are not simple or one-sided or direct. In fact, they often pose more questions than answers.

For every Jansenist view of human finitude, there is a Jesuit call for energy and self-reliance.

For every Hegelian spiritualization of truth and history, there is a corresponding Nietzschean emphasis upon human willfulness.

But out of facing complexity may come a habit of mind which accepts contradiction and learns to anticipate objections. We learn to seek illumination, rather than to build forts and trenches of thought. We learn to be humbled but not unnerved by ambiguity and uncertainty.

A slightly different way of saying the same thing is that the humanistic tradition trains us to recognize that something of value is always lost in the advent of anything new and this is the second contribution of humanistic learning.

It is hard to imagine that our urban planning fiascos of post-war years would have gone forward if there had been some sense that the communities being "renewed" needed to be protected against loss as much as aided from the outside.

Well-meaning social planners understood the communities they were displacing only in terms of their deficiencies—their lack of proper housing or schools or jobs—and not in terms of what they still possessed—networks or family and community relationships, pride and place and a healthy skepticism toward the benevolence of outsiders. Today we are at work trying to correct the errors of earlier misunderstandings!

The experience of Vietnam was a further and more tragic example of the same fundamental errors in judgment and wisdom.

So infatuated had we become with our own intentions for the Vietnamese and for their country that when we noted the discrepancies between their reality and our designs, we saw them only as justifications for a greater commitment to fulfill those designs.

Frances Fitzgerald demonstrates in her superb book, *Fire in the Lake*, how American planners almost invariably misunderstood the complex cultural assumptions of rural Vietnamese farmers. Fitzgerald's analysis is based upon careful research into the social and cultural background of Indochina. But I suspect that a serious and honest awareness of the distinctiveness of any alien culture might have produced more caution among our policy-makers.

That these men were so often the products of our most elite liberal arts colleges and universities makes even more urgent the case for understanding the relevance of the humanities as a way of instilling us with an awareness of what may sometimes be lost in our efforts to effect change.

Professor Morton Bloomfield of Harvard has expressed the insight I want to convey here. He wrote recently (*Daedalus*, Fall, 1974):

"Action becomes blind and meaningless unless it is backed by perspective and knowledge. Although perspective and knowledge can and often do lead to inaction, they can also lead to action. What does being contemporary mean? It means knowing what alternatives are open to one and what can be done without destroying what is worthwhile. This knowledge comes only from reflection and from a knowledge of tradition . . ."

My third observation is this: In all the great strands of our humanistic inheritance there is an admonition to caution and to intellectual humility.

Where the technical world is always seeking to reduce, to set limits, and even to eliminate uncertainty, the humanist cherishes that element of mystery as much as he or she does the positive knowledge acquired in its face.

In all the great literatures of the past, a fundamental attitude of mind is upehld: being fully alert to oneself, attentive to all the nerve endings of our being, and yet at the same time fully receptive to the wisdom of the world, humbly awaiting and welcoming its meanings for us.

This is the way of Baconian empiricism, the way of what Buddhists call "vijn-ana," the quality which evangelical Christians know as "conviction." Keats spoke of this when he attributed to Shakespeare something called "negative capability." "Man is capable," he wrote, "of being in uncertainties, mysteries, (and) doubts, without any irritable reaching after fact and reason."

Despite all the difference between these terms, they share a respect for the fearless

human apprehension of uncertainties, an ironic willingness to be totally present without imposing oneself on the world blindly.

The key word in the humanistic disciplines is "attention," and it is worth remembering its root—an old French verb meaning to stretch to something. Stretching, not shrinking, in the face of uncertainty is what all of us need to do.

My fourth observation about the contribution of the humanities would be that one of the ways we experience this uncertainty is to look at the same phenomenon from several different vantage points.

The demographer, for example, might look at the State of Rhode Island as a population with certain characteristics of settlement, size, fertility, employment and literacy (even as Timothy Dwight did!).

How different will be the view in the eyes of the geologist, the geographer, the economist, the ecologist, the student of literature, the anthropologist, the political scientist, the historian.

I do not want to argue that one discipline is more correct than another. The humanistic tradition stands apart, in a sense, from all of these perspectives. I want to point out instead how the juxtaposition of all these fields, addressed to the same subject in a constant process of focusing and refocusing our perception of reality.

We might understand the humanities as the overlap of these distance disciplines, or what has often been called interdisciplinary or multidisciplinary inquiry. But I would rather define the humanistic insight as the sense of widening and narrowing our vision—as the serious inquiry which proceeds when we stand outside each of the disciplines and witness the limits of each.

Each of these perspectives tells us something about Rhode Island, but each has a specific history and depends on a social world for its support. By standing apart from each of them, the humanities allows us to assume what some sociologists call a "Theoretic Stance" toward all of them.

To put it simply, each of these perspectives or disciplines is a human invention. Each of these views is the construction of a particular society.

Even though we experience Rhode Island and the rest of the world through particular glasses, it is at least theoretically possible for us to doff these spectacles and see the lenses themselves for what they are, devices for investigating our world and our place within it.

The idea that our knowledge is part of a social construction, the underlying premise of what has been called the sociology of knowledge, has been developing rapidly since the eighteenth-century Italian historian Giovanni Battista Vico began to assess historical progression as a human artifact.

This insight is central to the work of Marx and Michelet, Durkheim, Freud and Weber, indeed to a major tradition of the social sciences over the past two centuries.

There are those who see the sociology of knowledge as hostile to the way we have interpreted the humanistic tradition as a continuing, even timeless, aspect of thought.

But recognizing that the things we know are always the product of a particular society does not reduce the value of knowing them, any more than the eternal conflicts between the Platonist and the Aristotelian make it unnecessary to pay attention to either.

By understanding the contingency of our particular ways of thinking as late twentieth-century Americans, we gain some distance from ourselves, some perspective on who we are and how much value we can attach to our limited points of view.

The humanistic insight can become, then, a path of intellectual liberation from the social world which surrounds us and tries to lock us into particular ways of thinking which mesh with its own limited definition of "reality."

Within the disciplines and professions and cultural perspectives of our lives, we are attached to specific social forms, with hierarchies and methods of dissemination and evaluation. When we adopt the perspective of the humanities, we are—at least for the moment of epiphany—released from the grip of these systems of thought. Not released into a chaotic and undisciplined mental confusion but into a humble clarity about the boundedness of what we happen to know.

Finally, and in a more positive view, the perspective of the humanities offers us another community to supplant the one we escape in departing from the narrower perspectives of our individual disciplines.

I do not mean by this community the world of upperclass social privilege with which the pursuit of the higher culture was so long associated in American life. One of the most profound and beneficial effects of the "counter-culture" of the 1960's was the assault upon this association, upon the role of elite social groups as quasi-official guardian of the arts and humanities.

The community I have in mind is made up of those who are committed to over-stepping the limits of their own pressing technical concerns, who seek to make connections between problems in their fields of concern and those of people in different areas of endeavor, in different social classes, with different enthusiasms.

In a time of intense specialization, the tradition of the humanities offers perhaps the only field of concern where men and women of differing professions and social location can participate in a broader community of concern.

Many of the most critical issues we face today cannot be adequately addressed by technical learning alone. Or alone by communities of highly skilled professionals.

The issue of how we define educational excellence or what goals we set for our educational system are broad social questions which must be resolved by a community larger than that of the professional associations. And the same is true of national health insurance and the use of energy resources.

These questions are central to all our lives, and central to the critical traditions of this culture. Do not all of us, either as professionals or citizens, have a contribution to make to such discussions?

I do not hesitate to suggest to you that issues of everyday life in this society are rooted in our humanistic culture. At its heart, therefore, every activity in contemporary America—every moment of making and unmaking, of work and leisure, of learning and the passing on of learning—is also potentially an inquiry, an open-ended dialogue with the tradition we share.

Now, I don't pretend that every worker and farmer and administrator and housekeeper and salesperson and student does or could spend a large portion of each day contemplating the fundamental questions being addressed in his or her work. But the challenge to do so, to read all of our distinct social conditions as cases of a larger inquiry into the human condition, is there. And all of us share the responsibility of making it possible for all our citizens to participate in that inquiry.

The easier path or course is to construe one's problems as belonging to a special province, capable of being understood only by other insiders or initiates, only by those with proper expertise or who share the same ethnic or religious background.

But perhaps the time has come to understand the commonality of our cultural inheritance as well as our pluralism. The struggle for dignity of a black family on welfare in an eastern city, a white lower-middle class family hard-pressed to pay for college tuition, a midwestern farmer who has over-invested in capital equipment, is in many ways the same struggle, and the definitions of dignity offered by each have their roots in the same vision of human freedom and peace and excellence, in the same desire to inhabit what James Joyce once called "the fair courts of life."

That vision, and hence the community which shares it, are the products of our humanistic inheritance.

These, then, are the gifts which I believe the humanities can offer us—a clearer awareness of alternatives, a healthy respect at once for human understanding and for uncertainty, a chance to disengage from coercive and parochial communities, and an invitation to join a broader and more-inclusive one built around concerns which are crucial to contemporary society.

If these gifts are to be secured, the academic community has a major role to play.

As one of the most important agents of the preservation of our cultural heritage, the university has the responsibility of bringing to life in each generation the great minds of the past.

Through its more specialized studies, the terms of our dialogue with those minds is constantly reshaped. Those studies need the support of all Americans if we are to maintain access to the insight and learning of those who have gone before us.

There are other implications of this view of the humanities for our institutions of higher learning.

As our society becomes more technically sophisticated, and as the market for scholars and teachers continues to decline, it seems increasingly likely that almost all of our graduates will find their life work outside the world of schools and colleges.

Perhaps paradoxically, then, universities more and more need to insist that undergraduate students encounter this critical tradition. With proportionately fewer graduates in liberal arts majors, and with a greater technical background required for employment, and with fewer opportunities for students to spend their mid-twenties bouncing around in search of experience, direction and inspiration—The undergraduate years have become more important as the time to try out the connections between humanistic insight and workaday concerns.

I would guess, as some of you evidently have, that simply mandating several required courses in the development of western philosophy or art or political history is not sufficient to make these connections.

Can we do more?

Can we ask college teachers to consider the interweavings of the most powerful strands of their thought with the fabric of ordinary life as it is lived in America today?

Can our college faculties, with all their trials about academic tenure and mandatory retirement and accountability, be relied upon to provide insight and sympathy for what lies ahead for students in the world beyond the college gates?

If, for example, the issue of loyalty will be encountered by our graduates most dramatically in their future jobs, in their ways of responding to the demands and rewards of large organizations, are our professional political theorists prepared to help them understand the relevance of Augustine or Thoreau or Kafka to the problems of corporate society?

If we are concerned with the shoddiness of our products and our programs, do we have the aestheticians and economists in our midst to tell us how and why our standards of workmanship are wanting?

If Americans are worried about the visual pollution of our environment, are there architectural historians, students of the ancient and medieval city, and cultural geographers to help inform or discourse about the contexts of our habitation?

If we are perplexed about the blurred distinctions between the sacred and the profane in contemporary film and the media, and confused about how to convey moral values to our children, are there anthropologists, students of religion and literature, or psychologists who can bring some reason to this dilemma?

Or is the professional humanist—a term used quite often in NEH literature—to become more professional than humanist? More concerned with the issues of his own discipline to the exclusion of those we share as a culture?

If the academic community is to help preserve the spirit of the humanities as well as its matter, then it has to be asked fairly in our generation—as it was in that of Socrates and Rabelais' and of Emerson's—whether our formal institutions of learning are capable of fulfilling these larger public responsibilities to our culture.

Let me be clear. I am not arguing that the university should become a "service station" for society, an advisory board for every practical problem facing Americans. Nor should every professor abandon his scholarship in favor of a magazine journalist's commentary on our social life.

Rather I want to urge academics to see their scholarship, teaching and community service as a part of this deeper, more common inquiry which we all possess.

Perhaps the best way of saying this is that, if the issues of contemporary life are rooted in the humanities, as I have claimed, then it is equally true that our knowledge is rooted in our social circumstances.

The treasure of our common learning is not, then, simply passed from the university, the library and the museum to the general public; it moves in both directions, the experience of the society informing our understanding as much as the other way around.

In no other way, I believe, can we defend our common learning than by widening the opportunity to participate in it. Each person who reads Jane Austen, and who discovers and articulates something personally significant about her work, is also a contributing member of this culture. To be sure, the Jane Austen we understand is not the same one who wrote in the West Country of England a century-and-a-half ago—fortunately we have scholars of English Literature to remind us of that constantly. But we are not unfaithful if we bring our fullest attentiveness (and our fullest sense of our own questions today) to her work.

Against the argument that such literature has no inherent social value and must be cherished as "art for art's sake," we have to protest that society has the obligation to seek wisdom wherever it can.

The great pleasure of the classics, after all, is the way they spur new insights, the way they respond to new concerns, in each generation.

We have, therefore, not only Shakespeare's *Hamlet* to enjoy, but Coleridge's "Hamlet" and Hazlitt's "Hamlet," and that of Ernest Jones and George Lyman Kittredge and J. Dover Wilson, and that of Oliver and Burton and Scofield.

And if a young reader were to look at Hamlet's confusion about playing the role of a loyal prince, a revenging son, a lover and a man of contemplation, and see in that confusion a mirror of his own modern perplexities about role, then would not the *Hamlet* tradition itself be nurtured by such use?

In the Act establishing the National Endowment for the Humanities a dozen years ago, Congress boldly proclaimed that "Democracy demands wisdom and vision in its citizens."

That sets rather high goals for the agency I now lead, for we are charged not only with supporting humanistic learning, but with encouraging Americans to use that learning in becoming wise and farsighted.

It is probably easier to achieve the former than the latter, easier to assist in the growth of our culture than to nurture its wisdom.

The Acts establishing the National Endowments, after all, were only a part of an extraordinary explosion of the cultural richness of American life in the last quarter-century.

The economic vicissitudes plaguing academic institutions these days should not obscure the remarkable growth and development of American scholarship and arts during this period.

Or the astonishing growth of museums and libraries, or publishing and the media, as ways of making this culture accessible to more of our citizens.

Or the splendid efforts to preserve America's past—in our historic buildings and districts, in the oral history of ethnic and folk societies, in our documentary and artifact collections.

Or, not least, in the amazing ability of institutions like this one to quadruple its student population in the last twenty years in order to help young Americans take their places as participants in this cultural explosion.

Has all of this growth made us wiser, more compassionate, more attentive as a people?

This must be the meaning and purpose of our humanistic learning in the years ahead. The survival of our democratic community, especially in a technical age, is dependent upon the success of the humanities in nurturing our common culture.

To the preparation of students for their lives as productive members of this society, the humanities adds not merely habits of mental acuity but priceless attributes of self-awareness and social responsibility. They make of the educational process an initiation into the exercise of moral character in addition to the acquisition of knowledge and skills.

Perhaps the most telling analogy for the transformation we seek comes from the experience of historic preservation. Twenty-five years ago and earlier, when we saved an historic structure, it was generally to be made into a museum, a shrine, the repository of an older and often an elite culture, which had to be rescued from the disruptive commercial and industrial growth around it.

Today we are preserving—in Rhode Island as much as anywhere—those industrial and commercial districts which were so recently viewed only as eyesores. And we preserve them not as sanctuaries from modern life but as a place in which to live and work, to shop and converse and be creative. In the same way, I hope that our whole humanistic tradition can come to house our most creative efforts to make this a beautiful and a just society.

Thank you.

THE CTX

Mr. GOLDWATER. Mr. President, with further reference to my statements on the CTX of the past 2 days, I wrote yesterday to the Secretary of Defense pointing out to him that the Navy plans to buy its CTX aircraft without benefit of open competition. I have asked the Secretary of Defense to look into this matter and to give me his views as to whether this type of procurement, that is sole source, is to be the standard for the Department of Defense. I have also asked that after he reviews this intended procurement, he advise the Navy that it should proceed with an open competition for the CTX aircraft.

Mr. President, I ask unanimous consent that my letter to the Secretary of Defense are printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES,
Washington, D.C., November 3, 1977.

Hon. HAROLD BROWN,
Secretary of Defense, The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: On November 1, I received a letter from the Honorable W. Graham Claytor, Jr., Secretary of the Navy, advising me that the Navy was going to acquire its CTX aircraft without benefit of open competition. I am enclosing a copy of Secretary Claytor's letter, along with three extracts from the Congressional Record, which outlines quite clearly my interest in this particular matter.

I am most disturbed that the Department of Defense would allow the purchase of this aircraft without competition, since I have always felt this is the best way to get both price and quality. I wanted to bring this matter to your attention to have your views on whether this type of procurement is the standard for the Department of Defense. I hope after you review the material relating to this case, you will see fit to advise the Navy to proceed with an open competition.

Sincerely,

BARRY GOLDWATER.

DEPARTMENT OF THE NAVY,
Washington, D.C., October 31, 1977.

Hon. BARRY M. GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: Thank you for your letter of September 30, 1977, regarding the CTX. We in the Department of the Navy have thoroughly reviewed the Committee reports accompanying the Fiscal Year 1978 Department of Defense Authorization and Appropriations Bills. The legislative history, the colloquy and other aspects of the CTX received detailed attention. After careful evaluation of our requirements and all relevant factors including the various expressions of Congressional guidance, it is our conclusion that it is in the best interest of the Navy to acquire, through a military interdepartmental purchase request, the aircraft that is common with the Air Force and the Army.

The Chairmen of the Senate and House Appropriations and Armed Services Committees are being advised of this decision by letter. A copy of the letter to the Chairman of the Senate Armed Services Committee is attached. I am sending Senator Metzenbaum a letter similar to this one.

Sincerely,

W. GRAHAM CLAYTOR, JR.,
Secretary of the Navy.

[OCTOBER 3, 1977]

NAVY'S PLANS TO BUY THE CTX AIRCRAFT

Mr. GOLDWATER. Mr. President, the fiscal year 1978 Department of Defense authorization bill authorized Navy $21.6 million for 22 CTX light utility transport aircraft.

These aircraft were a conference issue since the House in its bill had not approved Navy's authorization request. The House Armed Services Committee's report expressed concern that Navy had not fully defined the requirement for this aircraft and had not yet determined the type of aircraft to be purchased. However, the House report did point out that Navy witnesses indicated they wanted to have a free and open competition

and that they expected five different companies to respond when the request for proposals was offered.

During the conference, there was much discussion about whether this procurement should be sole source or an open competition. It was my opinion, having participated in all of the discussion on this aircraft during the conference, that the conferees were unanimous in their understanding that this would be an open competition.

When we brought the conference report back to the Senate, Senator METZENBAUM and I, on July 14, engaged in a colloquy with Senator STENNIS to make sure there was no misunderstanding about the point of open competition for the CTX aircraft. Senator METZENBAUM, a strong advocate of free and open competition, was especially concerned that possibly procurement of the CTX would be sole source.

Mr. President, I ask unanimous consent that the colloquy referred to be printed at this point in my remarks.

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

"Mr. STENNIS. Mr. President, I thank the Senator from Texas for his very fine, effective service all the way through the bill, including the conference, and with the other conferees.

"I have never seen, I do not believe, as complete and total participation, week after week, by every conferee there from both the House and Senate.

"Mr. President, the Senator from Ohio has a matter here, and I am glad to yield to him for such time as he wants. I have certain papers in my hand he may need.

"Mr. METZENBAUM. I thank the Senator. I appreciate the courtesy of the Senator from Mississippi who, in his usual way, is always very courteous to all the other Members of the Senate.

"I have long addressed myself to my concern with respect to military procurement and the failure to use competitive bidding. I did that when I had the privilege of serving on an interim basis on the Armed Services Committee. I have done it in communications to the Secretary of Defense. I have done it at every opportunity, because in the past as little as 8 percent of all the procurement of the military has been done on a sealed bid competitive basis, and as much as 92 percent has been without true competitive bidding, and about 22 percent of that 92 perecnt was on a negotiated competitive bid.

"In looking over the report of the conference committee on this subject, it came to my attention that there was an item involving an authorization of $21.6 million—not a very large item as items in a military authorization bill go—for the purchase by the Navy of 22 CTX aircraft.

"As we read the conference committee report, this item was discussed a good deal at the conference committee. But the final report language is unclear on one key point.

"(Mr. Stone assumed the chair.)

"Mr. METZENBAUM. It is a fact that the CTX is to be an off-the-shelf aircraft. It would seem to me the best way to spend the taxpayers' dollars would be for the Navy to procure the CTX through price competition, through competitive bidding.

"I ask the distinguished members of the Armed Services Committee who contributed in the conference if it was the intent of the conference report that the CTX be competitively procured?

"Mr. STENNIS. Yes. The Senator is certainly correct.

"In response thereto, I will read from the pertinent part of the conference report, the language exactly as it is in the conference report. It reads—

" 'The program was discussed at length—'

"Meaning the $21.6 million program the Senator referred to:

" 'This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf turboprop light utility transport aircraft.

"These are small, light transport aircraft for the services. I wanted us to hold the money down on this any way we could and not go into new design or anything that was plush. This language was finally agreed upon. To me, it could not mean anything except that they buy this off the shelf, from whomever they see fit, as long as it is a turboprop and meets the other descriptions that are used.

"Mr. METZENBAUM. Does the distinguished Senator from Mississippi interpret that language to mean that the military will be expected to purchase, on a sealed bid competitive basis, these turboprop airplanes, since they are off the shelf, and does the off-the-shelf reference imply that they are to be procured in that manner?

"Mr. STENNIS. I will come back to that Except for the words 'sealed bids,' I am not sure that they do not have to be accepted procedures in the law for doing it without sealed bids. It certainly would be my expectation that they would do the best to make a dollar go as far as they could, but stay within this class of planes, off the shelf, so that there would not have to be anything special made at a high cost; and that would be in compliance with the law.

"Mr. GOLDWATER. Mr. President, will the Senator yield?

"Mr. STENNIS. I yield.

"Mr. GOLDWATER. Mr. President, I am glad that the Senator from Ohio has brought this up, because I think we have made it perfectly clear on the floor that this is to be competitive bidding.

"During the conference, I tried to use the language of our Senate report, which states:

"Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

"I objected to that, because if it is common, it means there is only 1 aircraft that can be bought, and that is the Beech aircraft.

"This language would have steered the CTX procurement to the Beech C12 A—commercial model A-200—meaning a sole source procurement.

"My language, which I recommended and which I thought had been adopted—but after I left the conference, it had been changed—was as follows:

"The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

"So I would like this colloquy to show that it is abundantly clear that competition will be held.

"I point out that there is the Cessna Co., two models of Beech, the Fairchild-Swearingen Co., and the Arava 201 STOL Transport.

"The CTX aircraft will provide direct administrative, logistics, and operational support to all fleet organizations, shore facilities and research organizations. It will replace many of the 20- to 30-year-old reciprocating engine aircraft currently performing this mission. In briefings provided to the committee, Navy indicated CTX would be a competitive procurement of a commercial off-the-shelf FAA-type certified aircraft. The planned total procurement is 66 aircraft to be bought at the rate of 22 per year over fiscal year 1978, fiscal year 1979 and fiscal year 1980.

"The authorization bill approved 22 CTX aircraft and recommended an authorization of $21.6 million for fiscal year 1978.

"The issue is whether Navy will now buy these 22 aircraft sole source from Beech—who now has an on-going contract with Army/Air Force for the C-12 to fill the CX UX requirement—or whether it will advertise for competitive bids to meet the CTX requirement.

"The potential bidders for this aircraft are: One, Cessna Conquest; two, Fairchild-Swearingen Metro; three, Beech Model A-200 (C-12A); four, Beech Super King Air Model 200; five, Arava 201 STOL Transport.

"Navy stated its general requirements for a CTX were as follows: One, Off-the-shelf Commercial Turbine Powered; two, Max TO GW 20,000 pound; three, 1000 NM Range/2000 pound; four, 8-18 PAX; five, 235 KTAS Min; six, 66 Aircraft—31 sites—To replace 117 UE old recips; seven, accel/stop less than 4,000 foot maximum; eight, consider DOD inventory; nine, small cargo door—40 inch by 48 inch pallet/ occupied litter.

"The argument that savings can be made if Navy buys the C-12A does not hold water. Since this aircraft will be contractor supported and maintained and the contractor will provide the training, all as part of the purchase price, there will be no common supply system or training system between the three services. Some savings would be possible if the services were going to maintain the aircraft and train all maintenance and air crew personnel.

"Consequently, there will be no Government inventory of spare parts, special tools, overhaul facilities, and training facilities.

"Referring back to the CX/UX competition, the word unofficialy is that the original evaluation of the Cessna Citation, Lear Jet, Swearingen, and Beech proposals, the Beech was rated fourth. Subsequently, when Congress directed Army to produce a turboprop aircraft only, Beech ended up as the only bidder because Swearingen at that time was having financial difficulties and was being taken over by Fairchild and did not bid a second time around.

"The Senate report stated that:

"Authorization of $21.6 million is recommended for procurement of off-the-shelf turboprop light utility transport which is common with the Army/Air Force light utility transport.

"This language would have steered the CTX procurement to the Beech C-12A—commercial model A-200—meaning a sole source procurement. Your proposed language for the conference report as follows:

"The conferees agreed to authorize $21.6 million for a competitive procurement of 22 off-the-shelf turboprop light utility transports for the Navy.

"This language was not accepted.

"The final language adopted in the conference report is as follows:

"This program was discussed at length among the conferees and agreement finally was reached to provide funds for an off-the-shelf, turboprop, light utility transport aircraft.

"Mr. President, I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits, it will be done that way.

"Mr. STENNIS. I thank the Senator. I do not know what he was reading about the specifications. I do not understand that. I am just passing on the words, that it is wide open to be competitive. As for the names that the Senator mentioned, any others who can meet the description would be entitled to bid.

"Mr. METZENBAUM. Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?

"Mr. STENNIS. It certainly is clear here. I certainly thought at the end, where the conferees wrote in the language that the Senator indicated——

"Mr. GOLDWATER. The language was not accepted. I left the room thinking it had been accepted, but after I left, it had been changed. I can read that language in the bill now. To me it is competitive bidding. But I want to pin it down absolutely.

"Mr. STENNIS. I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements. But it does not give them any authority to have a new plane built, with new specifications, and to get a plush plane and come back later for more money.

"Mr. TOWER. Mr. President, will the Senator yield?

"Mr. STENNIS. I yield.

"Mr. TOWER. Mr. President, my understanding certainly is consistent with that of the distinguished chairman, that this is to be competitive. I was part of the deliberations on this. That was the intention.

"Mr. METZENBAUM. I appreciate the responses of the distinguished Senators from Arizona, Mississippi, and Texas. It is a step in the right direction. I commend the Senators who served on the conference committee for taking this step in the right direction.

"Mr. STENNIS. I thank the Senator for his assistance while he was a member of the committee. We need him to come back.

"Mr. METZENBAUM. I thank the Senator."

Mr. GOLDWATER. Mr. President, Senator METZENBAUM and I thought after that particular exchange that there should be no doubt in the minds of Navy officials that CTX should be procured through established competitive procedures. However, that apparently was not the case, because it recently came to our attention that there was a possibility that Navy would buy these aircraft as an add-on to Army's ongoing C–12 procurement. This particular buy is in support of the Army and Air Force light utility transport requirement. The fiscal year 1978 House appropriations report on the defense bill stated that Navy should for its CTX requirement buy an aircraft that was common to Army and Air Force. This would make sense and would be the best course of action for the Government if the C–12 was a Government supported and maintained aircraft. However, that is not the case since the aircraft buy includes contractor support, which means that no savings are achieved as a result of having an aircraft common to all three services.

When Senator METZENBAUM and I heard that the Navy might buy the C–12 through Army, it was our opinion that such an action would be tantamount to a sole source procurement and not in the best interests of the Government and the taxpayers. We, therefore, wrote a letter to the Honorable W. Graham Claytor, Jr., Secretary of the Navy, expressing our concern over this matter.

I point out to my colleagues that Senator METZENBAUM and I have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures. That is the issue here.

Mr. President, I ask unanimous consent that the letter referred to be printed at this point in my remarks.

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

"WASHINGTON, D.C.,
"September 30, 1977.

"Hon. W. GRAHAM CLAYTOR, Jr.,
"Secretary of the Navy,
"The Pentagon,
"Washington, D.C.

"DEAR MR. SECRETARY: It has come to our attention that the Department of the Navy is considering buying, through the Army and without competition, the C–12 aircraft to meet its CTX requirement. This letter is to affirm to you our position that the procurement of the CTX aircraft should be done only through established competitive procedures. We have no objection if Navy eventually procures the C–12 aircraft as long as that procurement is the result of open competitive procedures.

"As you know, the fiscal year 1978 Department of Defense Authorization Conference Report authorized funds for 'an off-the shelf, turbo-prop, light utility transport aircraft.' However, since there had been some question as to the type of procurement the conferees intended, on 14 July, we engaged in a colloquy with Senator Stennis on the Senate floor to clarify the intent of the Conference Report. In the colloquy, Senator Metzenbaum asked Senator Stennis, '. . . if it was the intent of the Conference Report that the CTX be competitively procured?' Senator Stennis replied, 'Yes. The Senator is certainly correct.' Further on, Senator Goldwater stated that the purpose of the colloquy was, 'to show that it is abundantly clear that the competition will be held.'

"Senator Goldwater also stated, 'I am satisfied that if the Senator from Mississippi says that it is his understanding that this will be done by bits [sic], it will be done that way.' Senator Stennis responded, 'I am just passing on the words, that it is wide open to be competitive.' Following up on that, Senator Metzenbaum then asked, 'Does the Senator from Mississippi understand that this procurement will be done by competitive bids? Is that his understanding of the procedure?' Senator Stennis replied, 'It certainly is clear here.' Senator Goldwater then stated, 'To me it is competitive bidding. But I want to pin it down absolutely' and Senator Stennis replied, 'I thank the Senator for his interpretation. There is no doubt that it is an open bid for any manufacturer who can meet these requirements.'

"Mr. Secretary, even the most casual reading of the entire colloquy can only lead one to the conclusion that it was the intent of the conferees that the CTX be procured through competitive procedures. In fact, this is the only legislative history that points out the intent of the Congress on CTX. We bring this matter to your attention so that there is no doubt as to our feelings and no doubt as to the intent of the authorization conferees. We trust this will be a competitive procurement, but should you plan otherwise please contact us prior to proceeding.

"Sincerely,

"BARRY M. GOLDWATER,
"HOWARD M. METZENBAUM."

[November 1, 1977]

CTX

Mr. GOLDWATER. Mr. President, during the course of hearings before the Tactical Air Power Subcommittee, the matter of the Navy purchasing a CTX aircraft was heard. The CTX is a turbo-powered propeller-driven aircraft for light transport purposes. I thought the language contained in the subcommittee report made it clear that this purchase was to be for competitive bidding and in conference this was further discussed; and, though the language was changed, it was still my impression that it spelled out competitive bidding. When the conference report came to the Senate floor, Senator METZENBAUM and I engaged Senator STENNIS in colloquy, further bringing out the fact, in my mind, that the Navy purchase was to be be made only after competitive bidding.

I wrote the Department of the Navy on September 30 regarding this, and today I received a letter in answer, indicating that the Navy chose to ignore the decision made in the subcommittee, the full committee, in conference, and on the floor of the Senate, and is now buying it, as they say, "in an interdepartmental purchase." What they have done is to merely buy what the Army is using; and, while I have indicated in my November 1 letter to the Secretary, that I can find no fault with this aircraft, having flown it and practically everything else that company has built, there are still other companies in this country that make aircraft which can fill this bill and should have been considered.

I ask unanimous consent that the correspondence I have had with the Navy and their answer to me be printed in the RECORD.

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

"U.S. SENATE,
"Washington, D.C., November 1, 1977.

"Hon. W. GRAHAM CLAYTOR, Jr.,
"Secretary of the Navy,
"Department of the Navy,
"Washington, D.C.

"DEAR MR. SECRETARY: One month and one day after writing you about the CTX I receive a letter from you, and I suggest you ignore the one I wrote you yesterday because I probably wouldn't get an answer until Christmas.

"Whoever in your department read the reports, the colloquy, etc., evidently missed the main point. That point is that there was to be competitive bidding for the aircraft the Navy is to acquire. There is no question, in my mind, that this is made perfectly clear by the colloquy on the Senate Floor, by long discussions in the Conference, hearings and by discussions with the Chairman of the Senate Committee.

"I have nothing at all against the aircraft you indicate an interest in. In fact, I have flown it and have flown practically every model of aircraft this company has made. There are other companies, however, which make aircraft in this category which product, in my opinion is equal. This was the whole thought behind my efforts to spell out in the bill that this would be competitive bidding, and I was assured by the Chairman that this would happen. But now you have changed this concept to one of buying an interdepartmental aircraft.

"It may be your conclusion that you have practiced bidding, but I can assure you it is not mine. Nor will it be accepted as such by those of us who work diligently to allow a little competition to creep into the Pentagon.

"I am going to make some comments about this on the Floor of the Senate, and I am sending Chairman Stennis a copy of this letter because, in my opinion, your action is entirely outside the intentions of the Conference and the statements made on the Senate Floor.

"Sincerely,

"BARRY GOLDWATER.

"DEPARTMENT OF THE NAVY,
"Washington, D.C., Oct. 31, 1977.

"Hon. BARRY M. GOLDWATER,
"U.S. Senate,
"Washington, D.C.

"DEAR SENATOR GOLDWATER: Thank you for your letter of September 30, 1977, regarding the CTX. We in the Department of the Navy have thoroughly reviewed the committee reports accompanying the fiscal year 1978 Department of Defense Authorization and Appropriations Bills. The legislative history, the colloquy and other aspects of the CTX received detailed attention. After careful evaluation of our requirements and all relevant factors including the various expressions of congressional guidance, it is our conclusion that it is in the best interest of the Navy to acquire, through a military interdepartmental purchase request, the aircraft that is common with the Air Force and the Army.

"The Chairmen of the Senate and House Appropriations and Armed Services Committees are being advised of this decision by let-

ter. A copy of the letter to the Chairman of the Senate Armed Services Committee is attached. I am sending Senator Metzenbaum a letter similar to this one.

"Sincerely,

"W. GRAHAM CLAYTOR, Jr.,
"Secretary of the Navy."

[November 2, 1977]

THE NAVY'S CTX DECISION

Mr. GOLDWATER. Mr. President, today I received a letter from the Honorable W. Graham Claytor, Jr., Secretary of the Navy, advising me that the Navy was going to acquire its CTX aircraft without the benefit of open competition.

I am deeply disappointed that the Secretary has elected to proceed with this procurement in this manner, particularly after Senator Metzenbaum and I engaged Senator Stennis in a colloquy on this matter on July 14, 1977, during consideration of the fiscal year 1978 DOD authorization conference report.

As Senator Metzenbaum and I pointed out to the Secretary of the Navy in our letter of September 30, 1977:

"Even the most casual reading of the entire colloquy can only lead one to the conclusion that it was the intent of the conferees that the CTX be procured through competitive procedures."

Mr. President, contrary to this very specific legislative guidance set forth by three Members of this body, and with no other guidance of comparable weight, the Secretary of the Navy has elected to proceed with the CTX procurement in a sole source manner. I am not unaware of the language contained in the House Appropriations Committee report on the fiscal year 1978 DOD military procurement appropriations bill, which directed that the Navy buy the aircraft that is common to the Army and Air Force. However, Mr. President, there is nothing legally binding about committee report language, and I suggest that our colloquy on the floor, which provided a distinct clarification of this matter to the Senate, and the joint Metzenbaum-Goldwater letter to the Secretary of the Navy, should have been more than adequate guidance to the Navy that the CTX should be a competitive procurement.

Mr. President, this would be an entirely different matter if some of my colleagues and I were insisting that the Navy buy a specific aircraft. But, to the contrary, we are only trying to get the Navy to follow normal competitive procurement procedures which, through the years, have proved to be the cheapest way for the Government to buy its goods and services. However, from the response of the Secretary of the Navy it has become evident to me that Navy is not interested in pursuing the most economical way of procuring its required goods and services. It is by these intended actions indicating to me a serious disregard for how the money of the taxpayers should be treated.

Mr. President, I take this opportunity to inform my colleagues that I shall be watching this future sole source procurement by the Navy as closely as I can. I will insist that the aircraft that Navy acquires as the result of its military interdepartmental purchase request to the Army be exactly like the aircraft now being delivered to the Army and Air Force. The Navy has testified that it would desire to incorporate larger engines into the airframe, enlarge the cargo door, and make other minor avionics and instrumentation modifications. I will strenuously object to any change of this sort and I will vote against any future requests for funds for these or similar purposes.

Mr. President, I am now exploring the possibility of asking the General Accounting Office to examine whether or not a procurement of this type falls within the guidelines of the armed services procurement regulation, and whether a procurement of this type is the most economical way to proceed.

Finally, Mr. President, there are those in the Congress who support the Navy and the course of action it now intends to take. They are the ones who are pointing this procurement toward the Beech C–12 aircraft, which is currently being bought by Army and Air Force. I have no doubt that the Beech C–12 is a fine aircraft. I will accept that as a solid fact. But, I do have to ask the question, that if the Beech is the best aircraft, why will its supporters not allow it to compete with others in an open competition? Is there some concern that it would not win?

Now, Mr. President, what additional cost adjustments will be made in the ongoing C–12 purchase by the Army/Air Force when Navy adds an additional 66 aircraft to that purchase? Will there be an adjustment to the overall contract, and will the purchase price of the Navy aircraft be based on its total buy plus those already bought by Army/Air Force or, will Navy not receive any price reduction based on these considerations?

Mr. President, these are just a few of the considerations I have over what I believe to be a most unwise decision. During the next budget cycle, I shall be examining all of the Navy's procurement programs and where they are proceeding in a sole source manner, I shall not hesitate to bring that matter to the attention of the Senate.

TESTIMONY OF PROFESSOR RAOUL BERGER BEFORE SUBCOMMITTEE ON SEPARATION OF POWERS OF JUDICIARY COMMITTEE ON CONSTITUTIONAL ISSUES CONCERNING PANAMA CANAL TREATIES

Mr. ALLEN. Mr. President, on November 3, 1977, the Subcommittee on Separation of Powers of the Committee on the Judiciary convened to receive the testimony of Raoul Berger in connection with the subcommittee's investigation of certain constitutional issues associated with the Panama Canal Treaties. Professor Berger is the foremost legal authority on the U.S. Constitution and is the author of the recently published best seller, "Government by Judiciary." He is best remembered for his work, "Executive Privilege," which had tremendous impact on the course of history during the Watergate controversy.

His testimony before the subcommittee yesterday was highly significant in that he stated very forcefully the view that no property belonging to the United States in the Isthmus of Panama can be transferred to Panama by treaty alone, but that authorization by the Congress is specifically required by article IV, section 3(2) of the U.S. Constitution. Professor Berger expressed the further opinion that any treaty purporting to transfer such property, even if ratified by the Senate, would be void.

Inasmuch as the subcommittee has received overwhelming requests for copies of Professor Berger's testimony, I ask unanimous consent that his statement be printed in the RECORD, so that it will be easily avaliable to Members of Congress and interested members of the public.

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

STATEMENT BY PROFESSOR RAOUL BERGER BEFORE THE SENATE SUBCOMMITTEE ON SEPARATION OF POWERS HEARINGS ON THE PANAMA CANAL TREATIES

You have invited me to comment on the relation between the Article IV, Section 3 (2) power of Congress to dispose of property of the United States and the treaty power, in light of the statements respecting the relation by Herbert J. Hansell, Legal Advisor, Department of State,[1] and Ralph E. Erickson, Deputy Assistant Attorney General.[2] Although I am in favor of the Panama Canal Treaty, I share your solicitude for the preservation of constitutional boundaries and your concern lest the function committed to Congress be diminished. I have long held the conviction that all agents of the United States, be they Justices, members of Congress, or the President, must respect these boundaries. No agent of the people may overleap the bounds of delegated power. That is the essence of constitutional government and of our democratic system.

Long experience has led me to be skeptical of arguments by representatives of the Executive branch when they testify with respect to a dispute between Congress and the President, for they are then merely attorneys for a client, the President. It was for this reason that Justice Jackson dismissed his own prior statements in the capacity of Attorney General as mere advocacy, saying, a "judge cannot accept self-serving press statements for one of the interested parties as authority in answering a constitutional question, even if the advocate was himself."[3] The Hansell-Erickson testimony did not serve to diminish my skepticism.

The effect of these hearings ranges beyond the Panama treaty. The Panama cession will constitute a landmark which, should the State Department prevail, will be cited down the years for "concurrent jurisdiction" of the President in the disposition of United States property. Acquiescence in such claims spells progressive attrition of Congressional powers; it emboldens the Executive to make ever more extravagant claims. I would remind you that Congressional acquiescence encourages solo Presidential adventures such as plunged us into the Korean and Vietnam wars. Congressional apathy fostered the expansion of executive secrecy. Then as now the State Department invoked flimsy "precedents," for example, the pursuit of cattle rustlers across the Mexican border, to justify presidential launching of a full scale war.[4] If Congress slumbers in the face of such claims it may awaken the Samson shorn of his locks.

Earlier judicial statements that this or the other executive practice has been sealed by long-continued Congressional acquiescence[5] need to be reexamined in light of more recent judicial opinions, more conformable to the Constitution, that Congress may not abdicate its powers,[6] and a fortiori, it cannot lose them by disuse,[7] that usurpation can not be legitimated by repetition.[8] Senatorial insistence on respect for constitutional boundaries will warn the Executive against encroachments on Congress' powers; it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the full Congress.

Mr. Erickson, addressing himself to the question whether Article IV, Section 2 (3), "pursuant to which Congress has the power to dispose of property of the United States is an exclusive grant of legislative power to the Congress or whether the Congress and the President and the Senate, through the treaty power, share that authority," handsomely states "the answer to this question is not simple and altogether free from doubt."[9] That doubt counsels against encroachment on a power explicitly conferred on Congress;

Footnotes at end of article.

a clear case for establishment of "concurrent jurisdiction" is needed in the teeth of that express grant.

In support of the claim that the President and Senate enjoy "concurrent power" to dispose of United States property, Messrs. Hansell and Erickson invoke a melange of dicta, without weighing even stronger statements that Congress' disposal power is "exclusive." Thus the Supreme Court declared that Article IV "implies an exclusion of all other authority over the property which could interfere with this right or obstruct its exercise." [10] Echoing such judicial statements, an opinion of the Attorney General stated in 1899 that "The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of a statute conferring such power, can not be exercised by the Executive Department of the Government." [11]

Such statements respond to two cardinal rules of construction. First there is the rule that express mention signifies implied exclusion, which the Supreme Court has employed again and again: "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." [12] The rule was invoked by the Founders; for example, Egbert Benson said in the First Congress, in which sat many Framers and Ratifiers, that "it cannot be rationally intended that all offices should be held during good behaviour, because the Constitution has declared [only] one office to be held by this tenure." [13] The fact, emphasized by Hansell, that "The property clause contains no language excluding concurrent jurisdiction of the treaty power" is therefore of no moment. Having given Congress the power to dispose of public property, it follows that the President and Senate were "impliedly excluded" therefrom. Second there is the settled rule that the specific governs the general:

Where there is in an act a specific provision relating to a particular subject, that provision must govern in respect to that subject as against general provisions in other parts of the act, although the latter, standing alone, would be broad enough to include the subject to which the more particular provision relates.[14]

In terms of the present issue, the specific power of disposition governs the general treaty provision.

Under these rules it is of no avail that, according to Hansell, "there is no restraint expressed in respect to dispositions" in the treaty power itself. For this Mr. Hansell relies on *Geofroy v. Riggs:*

The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the . . . departments. . . .[15]

Only the treaty power is "expressed"; Geofroy does not call for express restraints—it suffices that they can be found in the Constitution. The "implied exclusion" is "found" in the Constitution by virtue of the express grant of disposal power to Congress under the rule of express mention, and of the fact that the general treaty power is limited by the special Congressional power of disposition. These principles are reflected in the Supreme Court's statement in *Sioux Tribe of Indians* v. *United States:*

Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to Congressional delegation of its authority.[16]

To this the State Department responds that Sioux Tribe "did not deal with the relation between the treaty power and the Congressional power under Article IV, Section 3, cl. 2;" Hansell labelled it "dicta." [17] By this test the Hansell-Erickson collection of dicta falls to the ground, for almost all were not uttered in the context of that relation.

The Executive branch employs a double standard—what is dictum when the language is unfavorable to it becomes Holy Writ when the dictum reads in its favor. Erickson, for example, tells us that—

"Jones against Meehan is cited as an example by reason of the quote and the language there, which it seems to me is of significance, irrespective of the particular facts involved." [18]

Messrs. Erickson and Hansell can not have it both ways. In truth, dicta carry little weight when a particular issue has not been decided. Chief Justice Marshall dismissed his own dicta in *Marbury* v. *Madison* when they were pressed upon him in *Cohens* v. *Virginia,* 19 U.S. 264, 399 (1821), on the ground that dicta do not receive the careful consideration accorded to the question "actually before the court." The statements here quoted respecting "exclusivity" carry weight because they reflect traditional canons of construction. The foregoing considerations should suffice to dispose of a number of other Hansell-Erickson arguments for "concurrent jurisdiction," but I shall consider them for the sake of completeness.

To escape from the exclusivity of Congress disposal power Mr. Erickson argues:

"To begin with, Article IV, Section 3, clause 2, uses the same terminology, 'Congress shall have power,' as Article I, Section 8, which in our opinion, permits treaty provisions relating to such matters to be self-executing [i.e., without Congressional action], at least to the extent that the inherent character of the power or other constitutional provisions do not make the power exclusive to Congress." [19]

Erickson's qualification is a concession that some Article I powers can not be concurrently exercised by the President. The Department of State concedes that "treaties may [not] impose taxes." [20] Why is that power more "inherently" exclusive than such other Article I, Section 8 powers as the power to establish post offices, to provide and maintain a navy, to declare war, to coin money, etc., all of which manifestly can not be exercised by treaty. Erickson proves too much.

Second, he urges:

"Article IV, Section 3, clause 2, is included in a portion of the Constitution which deals with the distribution of authority between the Federal and State governments. It does not purport to allocate powers exercisable by Congress or pursuant to treaty." [21]

But Section 3 (2) unmistakably does "allocate powers exercisable by Congress": "The Congress shall have power to dispose of . . . property belonging to the United States." Hansell argues that the placement of the property article in clause 4 . . . provides strong evidence that the property clause does not restrict the treaty power." [22] That the "placement of a power in one or another Article is without significance for its scope is readily demonstrable: (a) "Congress shall have power to declare the punishment of treason" is located in the Judiciary Article III; (b) Congress' powers to make "exceptions and regulations" respecting the Supreme Court's appellate jurisdiction is lodged in Article III, Section 2; (c) The provision that "Congress may determine the time of choosing the electors" is placed in the Executive Article II, Section 1 (4). Does this authorize the President by treaty to declare the punishment of treason, to regulate the Court's appellate jurisdiction, or to interpose in the choice of electors? Whether located in Article I or Article IV, "Congress shall have power" means one and the same thing—the power resides in Congress, not in the President. It needs constantly to be borne in mind that the President has circumvented Senate participation in treaty-making by affixing the label "Executive Agreements" to treaties, without constitutional warrant, [23] so that claims made on behalf of the Senate and the President can be turned to his own advantage.

Mr. Hansell also attaches significance to the close linkage between the Article IV "power to dispose" and "the power to make all needful rules and regulations" respecting the Territory or other property belonging to the United States, and cities *Geofrey* v. *Riggs* for the proposition that "the treaty power can be used to make rules and regulations governing the territory belonging to the United States, even in the District of Columbia." [24] Geofroy presented the question whether a citizen of France could take land in the District of Columbia by descent from a citizen of the United States. Local law withheld the right, but in keeping with national solicitude for protection of citizens abroad, a treaty provided for reciprocal rights of inheritance in such circumstances for citizens of both signatories. In consequence the treaty overrode the local provision; but this hardly stretches to the "making of rules and regulations" by treaty for the District of Columbia. Were this true, the President could by treaty take over the governance of the District of Columbia, in spite of the Article I, Section 8 (17) provision that "The Congress shall have power to exercise exclusive jurisdiction in all cases whatever over such district." Assume notwithstanding that the treaty power does indeed comprehend the "making of rules and regulations governing the . . . District of Columbia," does the "close" linkage with the "power to dispose" comprehend a disposition of the White House by treaty? Such arguments verge on absurdity.

Messrs. Hansell and Erickson have cited a string of cases in support of "The power to dispose of public land . . . by treaty." [25] Some, such as *Holden* v. *Joy,* 84 U.S. 211 (1872), and *Jones* v. *Meehan,* 175 U.S. 1 (1899), have frequently been cited in your hearings. Let me begin with Hansell's citation of *Missouri* v. *Holland,* 252 U.S. 416 (1920), for it quickly illustrates how farfetched are the State Department's interpretations. *Missouri* v. *Holland* arose out of a State challenge to the treaty with Great Britain for the protection of migratory birds which annually traversed parts of the United States and of Canada. Justice Holmes, addressing the argument that the treaty infringed powers reserved to the States by the Tenth Amendment, stated:

"Wild birds are not in the possession of any one, and possession is the beginning of ownership. The whole foundation of the State's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State, and in a week a thousand miles away." [26]

Consequently the State could assert no "title" in migratory birds. By the same token, the United States could lay no claims to "ownership" of the birds, and *Missouri* v. *Holland* is therefore wholly irrelevant to the power by treaty to dispose of property belonging to the United States.

Holden v. *Joy* and *Jones* v. *Meehan* will repay close analysis because they involve Indian treaties which constitute one of the pillars of the argument, to quote Erickson, that "the United States can convey its title by way of self-executing treaty and that no implementing legislation is necessary." [27] To begin with Jones, both Hansell and Erickson quote: "It is well settled that a good title to parts of the lands of an Indian tribe may be granted to individuals by a treaty between the United States and the tribe, without any act of Congress, or any patent from the Executive authority of the United States." [28] The treaty had "set apart from the tract hereby ceded [by the tribe] a reservation of six hundred and forty acres . . ." for an individual Indian; and the issue was what kind of title did he take. The Court quoted from an opinion of Attorney General Roger Taney, destined before long to succeed Chief Justice Marshall:

Footnotes at end of article.

"These reservations are excepted out of the grant made by the treaty, and did not therefore pass with it; consequently the title remains as it was before the treaty; that is to say, the lands reserved are still held under the original Indian title." [29]

The Court held that "the reservation, unless accompanied by words limiting its effect, is equivalent to a present grant of a complete title in fee simple." [30] That explanation presumably responded to the fact that tribal lands were generally held in common; individual titles were all but unknown, so that such title had to be secured through the machinery of the treaty. But that is far from a disposition of government land because, as Taney explained, the "reserved" title remained in the Indians. Many, if not most, of the cases of Indian treaties involve just such "reserve" provisions.[31]

The quotation from *Holden* v. *Joy*, Erickson acknowledges, is dictum; notwithstanding Hansell relies on it as "a clear statement of the law": [32]

"It is insisted that the President and the Senate, in concluding such a treaty, could not lawfully covenant that a patent should be issued to convey lands which belonged to the United States without the consent of Congress, which cannot be admitted. On the contrary, there are many authorities where it is held that a treaty may convey to a grantee a good title to such lands without an act of Congress, and that Congress has no constitutional power to settle or interfere with rights under treaties, except in cases purely political." [33]

What bearing the last clause has on Congress' "power to dispose" of public lands escapes me; this Delphic utterance surely does not overcome the clear terms of Article IV. As to the "many authorities," the Court's citation could hardly be farther afield. To avoid cluttering this statement with a minute analysis of each case cited by the Court for the assertion that "a treaty may convey to a grantee a good title . . . without an act of Congress," I have abstracted them in an appendix attached hereto, so that you may see for yourself that half of the cases thus cited are altogether irrelevant, and that the rest concern "reserves" under which, as Taney observed, no title had passed to the United States but remained in the given Indiana. In considering such dicta, it is well to bear in mind Chief Justice Taney's statement that the Court's opinion upon the construction of the Constitution is always open to discussion when it is supposed to have been founded in error, and that its judicial authority should hereafter depend altogether on the force of the reasoning by which it is supported.[34]

By that standard the Holden dictum is no authority at all. The inappositeness of Holden is underscored by the facts. In May, 1828, and February, 1833, "the United States agreed to possess the Cherokees of seven million acres of land west of the Mississippi." It "was the policy of the United States to induce Indians . . . to surrender their lands and possessions to the United States and emigrate and settle in the territory provided for them in the treaties," so an exchange of land was provided. But a third treaty, that of December, 1835, proved necessary, whereby the Indians ceded their lands to the United States in consideration of $5,000,000 to be invested in the manner stipulated. The Indians considered that the prior treaties, confirmed by the new, did not contain a sufficient quantity of land, so the United States agreed to convey an additional tract in consideration of $500,000 to be deducted from the $5,000,000.[35] This may be viewed either as a purchase and sale or an exchange: "the Cherokees were competent to make the sale to the United States and to purchase the lands agreed to be conveyed to them . . ." And the transaction was authorized by the Act of 1830, which empowered the President to set aside land west of the Mississippi for the reception of such tribes as chose to emigrate, and to "exchange" such lands with any tribe.[36] The 1830 act served to ratify the Act of 1828, and "ratification is equivalent to original authority:" [37] "It is well settled that Congress may . . . 'ratify . . . acts which it might have authorized' . . . and give the force of law to official action unauthorized when taken." [38] Although the subsequent 1833 and 1835 treaties differed in some particulars from the authorization, the purpose was the same—"to induce the Indians . . . to emigrate and settle in the country long before set apart for that purpose." [39] When, therefore, the Court, speaking to the contention that the President and the Senate "could not lawfully covenant that a patent should issue to convey lands which belonged to the United States without the consent of Congress," stated that "a treaty may convey to a grantee a good title to such lands without an act of Congress conferring it," it was making a statement that was unnecessary to the decision, because Congress had authorized the conveyance.

As to other treaties, Hansell tells us, "the precedents look two ways." Some have been "contingent upon congressional authorization." The "precedents supporting the power to dispose of property by treaty alone," he states, "can be found in the boundary treaties with neighboring powers, especially in the treaties between the United States and Great Britain of 1842 and 1846 for the location of our northeast and northwest boundaries . . ." [40] Settlement of boundary disputes are not really cessions of United States property. The Oregon boundary dispute proceeded from an inflated claim: "Fifty-Four Forty or Fight"; the British, on the other hand, claimed land down to the forty-second parallel. Only when the dispute was settled by treaty—at 49 degrees—could either party confidently assert that it had title.[41] Consequently, as Samuel Crandall, a respected commentator, stated, "A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition." [42]

Among other examples of alleged treaty transfers of property, Hansell instances the return to Japan of the Ryukyu Islands.[43] By Article III of the 1951 Treaty of Peace with Japan, the United States received the right to exercise "all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of those islands. . ." While Japan renounced in Article II, "all right, title and claim" to various territories, it made no similar renunciation with respect to the Ryukyus.[44] Quoting the Legal Advisor of the State Department, that "sovereignty over the Ryukyu Islands . . . remains in Japan . . .", a District Court stated that "Sovereignty over a territory may be transferred by an agreement of cession," but it concluded that there had been no cession.[45] The Fourth Circuit Court of Appeals quoted a statement by Ambassador John Foster Dulles, a delegate to the Japanese Peace Conference, that the aim was "to permit Japan to retain residual sovereignty," and held that the treaty did not make "the island a part of the United States, and it remains a foreign country for purposes of" the Federal Tort Claims Act.[46]

"In the history of transfers of property to Panama," Hansell tells us, "we have had a mixed practice." [47] By the 1903 Panama Convention, Panama granted to the United States "all the rights, power and authority within the Zone . . . which the United States would possess if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority . . ." [48] The words "if it were sovereign" signal an intent to stop short of a cession of sovereignty. That is confirmed by an Opinion of the Attorney General. Considering the Tariff Act levy of duties on articles imported "into the United States or into any of its possessions," he stated that "the Canal Zone is not one of the possessions of the United States within the meaning of that term as used by Congress in the tariff act, but rather is a place subject to the use, occupation, and control of the United States for a particular purpose." [49] In *Luckenbach S.S. Co.* v. *United States*, Chief Justice Taft stated, "Whether the grant in the treaty amounts to a complete cession of territory and dominion to the United States or is so limited as to leave titular sovereignty in the Republic of Panama, is a question which has been the subject of diverging opinions," which he found it unnecessary to decide,[50] and is therefore still open. Instead he relied on a "long continued course of legislation and administrative action [that] has operated to require that the ports in the Canal Zone are to be regarded as foreign ports within the meaning" of the Act governing the transport of "mail between the United States and any foreign port," [51] itself a hint that the Panama Treaty is no more a cession than the Japanese Treaty respecting the Ryukyus.

It does not follow, however, that the interests of the United States do not constitute "property of the United States." The grant of "use and occupation . . . in perpetuity" constitutes "property" no less than the familiar lease of realty for 99 years. Then there are the installations that cost billions of dollars. Disposition of these no less requires the consent of Congress than does that of territory. In 1942, the President by Executive Agreement promised to transfer certain installations to Panama subject, however, to Congressional approval.[52] A similar provision is to be found in the Treaty of 1955.[53] These are executive constructions that speak against Messrs. Hansell and Erickson.

In sum, Messrs. Hansell and Erickson have failed to make out a case for "concurrent jurisdiction" with Congress in the disposition of United States property. If the President is to fly in the face of the express "power of Congress to dispose" it must be on a sounder basis than the arguments they have advanced. In my judgment, the Panama Treaty should contain a provision making it subject to approval of the Congress.

FOOTNOTES

[1] Hearings on the Panama Canal Treaty before the Senate Subcommittee on Separation of Powers (95th Cong. 1st Sess.) Part II, p. 3 (July 29, 1977), hereafter cited as Hansell.

[2] Hearings before the House Subcommittee on the Panama Canal on "Treaties Affecting the Operations of the Panama Canal," (92 Cong. 2d Sess.) p. 95 (December 2, 1971), hereafter cited as Erickson.

[3] *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579, 647 (1952), concurring opinion.

[4] R. Berger, *Executive Privilege: A Constitutional Myth* 75–88 (1974).

[5] Congress "uniformly and repeatedly acquiesced in the practice." "It may be argued that while the facts and rulings prove a usage they do not establish its validity. But government is a practical affair intended for practical men. Both officers, law-makers and citizens naturally adjust themselves to any long continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice." *United States* v. *Midwest Oil Co.*, 236 U.S. 459, 471 (1915). But as Justice Frankfurter later declared, "Deeply embedded traditional ways of conducting a government cannot supplant the Constitution or legislation . . ." Youngstown Sheet, supra, n. 3 at 610, concurring opinion.

[6] *Panama Refining Co.* v. *Ryan*, 293 U.S. 388, 421 (1935).

[7] *United States* v. *Morton Salt Co.*, 338 U.S. 632, 647 (1950).

[8] "That an unconstitutional action has been taken before surely does not render that same action less unconstitutional at a later date." *Powell* v. *McCormack*, 395 U.S. 486, 546–547 (1969). *Zweibon* v. *Mitchell*, 516 F.2d 594, 616 (D.C. Cir. 1975); "there can be no doubt that an unconstitutional practice, no matter how inveterate, cannot be condoned by the judiciary." *United States* v. *Morton Salt Co.*, 338, U.S. 632, 647 (1950): "nonexistent powers can [not] be prescripted by an unchallenged exercise . . ."

[9] Erickson 97.

[10] *Wisconsin Cent. R.R. Co.* v. *Price County*, 133 U.S. 496, 504 (1890); see also *Swiss Nat. Ins. Co.* v. *Miles*, 289 Fed. 571, 574 (App. D.C. 1923).

[11] 22 Op. Atty. Gen., 544, 545 (1899). 2 J. Story, *Commentaries on the Constitution of the United States, Section* 1328, p. 200 (4th ed. 1873): "The power of Congress over the public territory is clearly exclusive and universal . . ." Cf. *Osborne* v. *United States*, 145, F. 2d 892, 896 (9th Cir. 1944).

[12] *Botany Worsted Mills* v. *United States*, 278 U.S. 282, 289 (1929); *T.I.M.E.* v. *United States*, 359 U.S. 464, 471 (1959): "we find it impossible to impute to Congress an intention to give such a right to shippers under the Motor Carrier Act when the very sections which established that right in Part I [for railroads] were wholly omitted in the Motor Carrier Act."

[13] *1 Annals of Cong.* 505 (2d ed. 1936) (print bearing running head "History of Congress"); and see Alexander White, id. 517.

[14] *Swiss Nat. Ins. Co.* v. *Miller*, 289 Fed. 570, 574, (App. D.C. 1923). *Ginsberg & Son* v. *Popkin*, 285 U.S. 204, 208 (1932): "General language of a statutory provision, although broad enough to include it, will not be held to apply to a matter specifically dealt with in another part of the same enactment." *Buffum* v. *Chase Nat. Bank*, 192 F.2d 58, 61 (7th Cir. 1951). In this light, the fact, stressed by Hansell, that the Framers contemplated that a treaty could affect "territorial" rights, Hansel 5, is not decisive, for the treaty would yet be subject to the special Congress "power to dispose." There is no evidence in the records of the Convention that the Framers intended in any way to curtail that power, or to give the President a share in it. Were the matter less clear, we should yet "prefer a construction which leaves to each element of the statute a function in some way different from the others" to one which causes one section to overlap another. *United States* v. *Dinerstein*, 362 F.2d 852, 855–856 (2d Cir. 1966).

[15] Hansell 4; 133 U.S. 258, 267 (1890), emphasis added. One might with equal force argue that no limitation on Congress' "power to dispose" is "expressed' in Article IV.

[16] 316 U.S. 317, 326 (1942). *Turner* v. *American Baptist Missionary Union*, 24 Fed. Cas. (No. 14, 251) 344, 346 (C. Ct. Mich. 1852): "Without a law the president is not authorized to sell the public lands. . . . The [Indian] treaty, in fact appropriated the above tract of 160 acres for a particular purpose, but, to effectuate that purpose, an act of Congress was passed."

[17] Hansell 27, 22.

[18] Erickson 105.

[19] Id. 97.

[20] Hansell 25.

[21] Erickson 97.

[22] Hansell 4–5, emphasis added.

[23] Berger, supra n. 4 at 140–162.

[24] Hansell 5.

[25] Id.; Erickson 97.

[26] 252 U.S. at 434.

[27] Erickson 97.

[28] Hansell 6; Erickson 97.

[29] 175 U.S. at 12, emphasis added.

[30] Id. 21.

[31] See infra Appendix.

[32] Erickson 97; Hansell 22.

[33] Quoted by Hansell 5–6; 84 U.S. at 247.

[34] The Passenger Cases, 48 U.S. (7 How.) 283, 470 (1849), dissenting opinion.

[35] 84 U.S. at 237, 238, 241.

[36] Id. 245, 238–239.

[37] *Wilson* v. *Shaw*, 204 U.S. 24, 32 (1907).

[38] *Swayne & Hoyt, Ltd.* v. *United States*, 300 U.S. 297, 301–302 (1937).

[39] 84 U.S. at 240.

[40] Hansell 6.

[41] S. E. Morison, *Oxford History of the American People*, 538, 546–547 (1965).

[42] S. Crandall, *Treaties, Their Making and Enforcement*, 226 (2d ed. 1916).

[43] Hansell 6.

[44] 3 U.S.T. 3169, 3172, 3173.

[45] *United States* v. *Ushi Shiroma*, 123 F. Supp. 145, 149, 148 (D. Hawaii, 1954).

[46] *Burna* v. *United States*, 240 F. 2d 720, 721 (4th Cir. 1957).

[47] Hansell 7.

[48] Quoted Hearings, supra n. 1, Part I, p. 5, emphasis added.

[49] 27 Op. Atty. Gen. 594, 595 (1909).

[50] 280 U.S. 173, 177–178 (1930).

[51] Id. 178.

[52] "When the authority of the Congress . . . shall have been obtained therefore . . ." Agreement of May 18, 1942, 59 Stat. (Pt. 2) 1289.

[53] Agreement of January 25, 1955, 6 U.S.T. 2273, 2278.

APPENDIX

i

Holden v. *Joy*: its citations for treaty power to dispose of property.

A. "Reserve" cases (title remains in Indians)

(1) *United States* v. *Brooks*, 51 U.S. (10 How.) 442 (1850).

Indian cession to United States; supplement to treaty provided that Grappe's representatives "shall have their right to the said four leagues of land reserved to them. . ." (450, 451). Held: treaty "gave to the Grappes a fee simple title to all the rights the [Indians] had in these lands . . ." (460).

(2) *Doe* v. *Wilson*, 64 U.S. (23 How.) 457 (1859). Indian treaty ceded land to United States, making reservations to individual Indians. "As to these, the Indian title remained as it stood before the treaty was made; and to complete the title to the reserved lands, the United States agreed that they would issue patents to the respective owners." (461–462).

(3) *Crews* v. *Burcham*, 66 U.S. (1 Black) 352 (1861). Cession by Indians with reserves (355). "The main and controlling questions involved in this case were before this court in the case of *Doe* v. *Wilson*, 23 How. 457 . . ." (356).

(4) *Mitchel* v. *United States*, 34 U.S. (9 Pet.) 711 (1835). Prior to the Spanish cession of Florida to the United States, the Indians had made a cession to Spain, "reserving to themselves full right and property" in certain lands. (749). Held: "by the treaty with Spain the United States acquired no lands in Florida to which any person had lawfully obtained" title. (734, 756). Issue: title of purchaser from Indians to reserved lands.

(5) *The Kansas Indians*, 72 U.S. (5 Wall.) 737 (1866). Treaty exchange of lands; Indians reserved lands for each individual (739, 741). Issue: was such land taxable by Kansas.

B. Irrelevant Cases:

(1) *Meigs* v. *McClung*, 13 U.S. (9 Cranch) 11 (1815). Held: land claimed from defendants did not lie within territory ceded to the United States by the Indians. (17).

(2) *Wilson* v. *Wall*, 73 U.S. (6 Wall.) 83 (1967). Treaty provided that certain Indians would be entitled to 640 acres for self, and additional acres, roughly speaking, for each child. (84). Issue: whether an Indian held land governed by the latter clause in trust for his children. (86). Court said "Congress has no constitutional power to settle the rights under treaties except in cases purely political," (89) the clause quoted in *Holden* v. *Joy*. The reason, it explained, was that "The Construction of them is the peculiar province of the judiciary . . ." id. In other words, interpretations of treaties is for the courts.

(3) *American Insurance Co.* v. *Canter*, 26 U.S. (1 Pet.) 511 (1828). Insurer brought a libel in the District Court, South Carolina, to obtain restitution of 356 bales of cotton carried by ship that was wrecked on the Florida coast. A Florida territorial court had earlier awarded 76% salvage to salvers, who sold the Canter. (540). Issue: did the territorial court have jurisdiction. No mention of grant by United States.

(4) *Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832). Worcester, a white missionary was convicted of residing within Indian territory without a State license. The treaty with the Indians placed them under the protection of the United States, gave it the sole right of "managing all their affairs." Held: the Georgia act can have no force in the Indian territory. (561).

(5) *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253 (1829). Re grants made in the ceded territory by Spain prior to January 24, 1815, the article provides "that those grants shall be ratified and confirmed like Indian "reserves . . . the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. (314–315).

ii

Some additional Hansell citations for power to dispose by treaty.

(1) *Reid* v. *Covert*, 354 U.S. 1 (1957). Military Code provided for trial by court martial of "all persons . . . accompanying the armed forces" of the United States in foreign countries. Wife of Army Sergeant convicted by court martial in England of his murder. Held: Bill of Rights requires jury trial after indictment.

(2) *Asakura* v. *Seattle*, 265 U.S. 322 (1924). Seattle ordinance restricted pawnship license to United States citizen. (339–340). Japanese attacks as violation of treaty provision: citizens or subjects of each signatory "shall have liberty . . . to carry on trade, wholesale and retail . . . upon the same terms as native citizens or subjects . . ." (340). Held: can't deny the Japanese equal opportunity. (342).

(3) *Santovicenza* v. *Egan*, 284 U.S. (1931). Italian subject dies in New York, leaving no heirs or next of kin. (351). Italian consul claims under "most favored nation" treaty clause. Held: The treaty-making power is broad enough" to cover "the disposition of the property of aliens dying within the territory of the respective parties . . ." Any "conflicting law of the State must yield." (40).

iii

Some additional Erickson citations for self-executing treaty conveyances.

(1) *Francis* v. *Francis*, 203 U.S. 233 (1906). Indian treaty ceded land to United States, but reserved certain tracts for use of named persons. (237). Quotes *Jones* v. *Meehan;* when treaty makes "a reservation of a specified number of sections of land . . . the treaty itself converts the reserved sections into individual property . . ." (238). It was in these circumstances that the Court said, "a title in fee may pass by treaty without the aid of an act of Congress, and without a patent," (241–242) the reason being that title to the reserved land remained in the Indians.

(2) *Best* v. *Polk*, 85 U.S. (18 Wall.) 112 (1873). By Indian treaty "reservation of a limited quantity [of land] were conceded to

them. (113). One section "had been located to an Indian." (113, 116). Thereafter, the United States issued a patent to James Brown. Held (117), "the Indian reservee was held to have a preference over the subsequent patentee."

ADDENDUM TO STATEMENT BY RAOUL BERGER BEFORE THE SUBCOMMITTEE ON SEPARATION OF POWERS OF THE COMMITTEE ON THE JUDICIARY

The statement by Attorney General Griffin B. Bell (hereafter cited as A.G.) before the Senate Foreign Relations Committee, September 29, 1977, reached me on Saturday afternoon, October 29, 1977, too late for inclusion of my comments in the body of my statement. Only three points made by the Attorney General seem to me to call for additional comment, and of these I shall speak in turn.

I

The Percheman Case

The Attorney General cites *United States* v. *Percheman*, 32 U.S. (7 Pet.) 511, 88–89 (1833) to prove that "the Court held self-executing certain clauses of the Florida Treaty with Spain which related to the regulation of property rights in newly acquired territory." A. G. at p. 10. At the cited pages it appears that Article 8 of the treaty provided:

"All the grants of land made before the 24th of January, 1818, by his Catholic Majesty . . . in the said territory ceded by his Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands . . .

This Article, Chief Justice Marshall remarked, "must be intended to stipulate expressly for that security of private property which the laws and usages of nations would, without express stipulation, have conferred . . . Without it (Article 8), the title of individuals would remain as valid under the new government as they were under the old . . . the security of (pre-existing) private property was intended by the parties . . .

In short, the treaty provided that prior Spanish grants to *private* persons should be ratified and confirmed, a provision far removed from presidential "regulation" of public territory. Moreover, *Foster* v. *Neilson*, 27 U.S. (2 Pet.) 253, 314–315 (1829), a case cited by the Attorney General (A.G. at p. 3), held with respect to the self-same provision that "the ratification and confirmation which are promised must be by the Act of the Legislature," i.e. Congress. The citation to Percheman illustrates why I approach an Attorney General's statement with something less than awe.

II

Remarks in the Legislative History of the Constitution

(1) The Attorney General asserts that "the members of the Convention were fully aware of the possibility that a treaty might dispose of the territory or property of the United States," (A.G. at p. 5). He begins with the remark of George Mason in the Constitutional Convention: "The Senate by means of a treaty might alienate territory etc. without legislative sanction." A.G. at p. 6; 2 Farrand 297. This was during a debate on a resolution that "Each House shall possess the right of originating bills," when Mason seconded Strong's motion to "except bills for raising money for the purposes of revenue, or for appropriating the same." The Senate, said Mason, "could already sell the whole Country by means of Treaties," plainly an extravagant overstatement, made at a time when the treaty was not under discussion. His "alienate territory" remark may merely represent a strategic retreat from his untenable "sell the whole country" remark.

There follow a group of utterances that have reference to boundary disputes, i.e. conflicting claims to ownership to be settled by treaties of peace.

(2) When the treaty power was under discussion, Williamson and Spaight moved "that no Treaty of Peace affecting territorial rights should be made without concurrence of two thirds of the [members of the Senate present]." A.G. at p. 6; 2 Farrand 543. Similarly, Gerry, speaking for a greater proportion of votes on "treaties of peace", said that here:

"The dearest interests will be at stake, as the fisheries, territories, etc. In treaties of peace also there is more danger to the extremities of the Continent" has reference to boundary disputes which do not really involve territory owned by the United States.

(3) "Sherman and Morris proposed but did not formally move," the Attorney General states, "the following proviso:

"But no treaty (of peace) shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the United States may be contracted . . ."

A.G. at p. 6; 4 Farrand 58. Farrand adds that "The subject was then debated, but the motion does not appear to have been made." Id. Why was the motion not made after debate? Presumably, the matter was postponed for consideration with Article IV. Section 3(2) would come up for discussion. During this subsequent discussion of "The Legislature shall have power to dispose of . . . the territory . . .", it is singular that no mention was made of an exception for disposition under the treaty power. 2 Farrand 466. Nonmention is the more remarkable because such an exception would carve out an area of undefined magnitude from the power conferred, a matter which would affront the democratically minded who placed their faith in the House. It seems more reasonable to infer from the history that Article IV, Section 3(2) was designed to set at rest the fears that territory might be ceded without the concurrence of the House.

(4) The Attorney General cites an amendment proposed by the Virginia Ratification Convention as exhibiting the "awareness of the Founding Fathers that the Constitution authorizes self-executing treaties disposing of the territory and property of the United States":

"No commercial treaty shall be ratified without the concurrence of the members of the Senate [not merely of those present]; and no treaty ceding, contracting . . . the territorial rights or claims of the United States . . . shall be made, but in cases of extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both Houses respectively."

A.G. at p. 7; 3 Elliot. Debates on the Federal Constitution 660. The Attorney General's reading paradoxically transforms Virginia's anxiety to have greater safeguards, i.e., three-fourths of both Houses rather than the bare majority that satisfies Article IV, into an argument for excluding the House altogether. Like the earlier remarks, the Virginia proposal testifies to the importance that the Founders attached to the disposition of territory—no cession except "in cases of extreme necessity"—and it counsels against reading the equivocal "treaty-making" to encroach upon the "power to dispose" that requires the vote of both Houses, not merely the Senate. In any event, it may be asked, should the post-Convention view of one State be permitted to override the plain terms of Article IV.

(5) Hugh Williamson, a delegate to the Convention, wrote to Madison some nine months after its close, to recall to him "a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate . . . from giving up the Mississippi. It is provided that two-thirds of the members present in the Senate shall be required in making treaties. . . ."

A.G. at p. 7–8; 3 Farrand 306–307. The Mississippi presented a gnawing boundary question which threatened the expansion of the West and was only settled by the Louisiana Purchase. Boundary treaties do not really involve the disposition of territory or property of the United States but the adjustment of conflicting claims, even when some believe their claims to be more valid than those of the opposing party.

To my mind, the history is at best inconclusive; the remarks quoted by the Attorney General are confined to adjustment of boundary disputes, with one exception, by treaties of peace. Treaties of peace present special problems, and such citations do not add up to general concurrent juirsdiction over the disposition of government territory or property. To go beyond such territorial adjustments collides with the rationale of *Pierson* v. *Ray*, 386 U.S. 547, 554–555 (1967). With respect to the common law immunity of judges from suit for acts performed in their official capacity, the Court declared:

"We do not believe that this settled principle was abolished by Section 1983, which makes liable 'every person' who under color of law deprives another of his civil rights . . . we presume that Congress would have specifically so provided had it wished to abolish the doctrine."

Thus, the all-inclusive "every person" was held not to curtail an existing common law immunity in the absence of a specific provision. The more equivocal treaty-making power demands an even more exacting standard. Before it be concluded that it in any way diminishes the explicit grant to Congress of "power to dispose" of territory, a clearly expressed intention to do so is required. That requirement is not satisfied by the random remarks collected by the Attorney General.

The Attorney General concedes that:

"The specific power granted to the House of Representatives and Congress in fiscal matters (Article I, Section 7, clause 1 and Article I, Section 9, clause 7, money bills and appropriations power) preclude making treaties self-executing to the extent that they involve the raising of revenue or the expenditure of funds. Were it otherwise, President and Senate could bypass the power of Congress and in particular of the House of Representatives over the pursestrings."

A. G. at p. 4–5. Now, sections nine and seven are couched in quite dissimilar terms. One, Section 9(7), is framed in terms of flat prohibition: "No money shall be withdrawn from the Treasury but in consequence of appropriations made by law. . . ." Section 7 (1), on the other hand, merely provides that "All bills for raising revenue shall originate in the House." Yet, the Attorney General reads Section 7(1) to preclude the President and Senate from "bypass[ing] the power of Congress and in particular of the House of Representatives over the pursestrings." What is there that distinguishes "All bills . . . shall originate in the House" from "The Congress shall have power to dispose. . . ."? The impalpability of the distinction is underlined by the State Department's concession that "treaties may [not] impose taxes." Nothing in this Article I, Section 8(1) "The Congress shall have power to lay and collect taxes" distinguishes it from the Article IV "The Congress shall have power to dispose. . . ."

If the President may not by treaty "bypass" the power of the House to originate revenue-raising bills, or the power of Congress to tax, no more may he "bypass" its "power to dispose" of the territory and property of the United State.

THE REMARKABLE STUDENT THEATER GUILD OF NORTH CAROLINA

Mr. HELMS. Mr. President, for 7 years now a remarkable organization called the Student Theater Guild has had two troupes of actors traveling from one to another of North Carolina's 100 counties, bringing quality theater to our communities.

Our State, Mr. President, has been called an urban anomaly. We are a highly industrialized State, yet unlike other industrialized States, less than half of our people live in urban places. Indeed, we rank 45th in degree of urbanization. Typically, our people have preferred to live in small towns, and our industries, for one reason or another, have largely followed this pattern.

But while our citizens can hunt, fish, and tend to their gardens within minutes of their jobs, these smaller communities cannot by themselves support the rich cultural life usually associated with metropolitan centers.

We have compensated for this in our State by transporting the performing arts to the scattered schools and communities of our State, from the outer banks of our wind-swept coast to the fastnesses of our mountain valleys.

During World War II, the North Carolina Symphony was traveling by bus from one community to another, bringing the music of the greatest composers to our rural areas. This tradition continues today, typically two concerts being scheduled at each stop: one for the schoolchildren, the other for adults. On the heels of the symphony followed other performing troupes, such as the remarkable Grass Roots Opera now known as the National Opera Co., and groups from our North Carolina School of the Arts.

Now the student theater guild has entered the field, so that in numberless towns, the citizens, without leaving their community, can enjoy not only symphony, opera, and ballet, but also the finest of theater.

The guild, with a board of directors representing 10 different communities, sponsors 2 performing groups. One "The Pied Piper Players" is oriented to young children, with trained student actors as performers.

The other, the Repertory Theater Co., is a professional company presenting Shakespeare, musicals, and comedies.

During the 7 years of its existence, the student theater guild has performed in 78 counties in North Carolina, and in South Carolina, Virginia, and Georgia as well. The audience has totaled more than 275,000. At last count, 535 performances have been presented, 40 productions mounted.

And it should be emphasized that this program of bringing fine theater to our fellow Tar Heels is not governmentally supported: it is an effort of private citizens who love their State and are willing to give of their own time and money to bring a full life to North Carolina.

Mr. President, the success of the student theater guild is proof that smaller communities can provide a rich and varied cultural life.

All it takes is imagination, determination, and organizations like the Student Theatre Guild, Inc., of North Carolina.

UNDP ADMINISTRATOR BRAD MORSE AND A LOOK AT THE GLOBAL ECONOMIC SYSTEM

Mr. HUMPHREY. Mr. President, I would like to call to the attention of my colleagues a most impressive speech delivered by United Nations Development Program Administrator, Brad Morse, before the Western Regional Leadership Conference held in Los Angeles in September.

The points raised in the speech are very relevant to the consideration of the Congress in the international economic policy area.

As Mr. Morse noted:

. . . we Americans have long been preoccupied with challenges from traditional major-power sources, and with employing the classic techniques of diplomacy based upon trade-offs among a handful of nations possessing varying combinations of military and economic power. Now we are confronted by challenges from two-thirds of humankind who speak at once from the awesome moral strength of poverty, the impatience of proud peoples long colonized, and from a growing realization that the rich nations need them for their survival: need partnership with them for the use of the resources within their sovereignties; need partnership with them for the expanding trade which the voracious enginerooms of the rich economies must have. I would remind you that United States exports to developing countries even now exceed $37 billion per year; more than one-third of the American export total.

The advantage which Americans have, if once it is recognized, is that virtually every one of the demands now tabled before the United Nations General Assembly have close equivalents in the demands made by the poor and the fearful, the exploited and the exploitable, within the United States during the last hundred years. I urge those of you who tomorrow will examine the demands of Third World farmers for agreed measures to protect the returns on their produce from remote international speculation and middlemen, to recall how our own Congress echoed with the same so-called rhetoric in the historic debates that produced the 1916 Warehouse Act; the Packers and Stockyards Act; the legislation to protect cotton growers against speculation in that commodity, and then the 1922 bills to protect grain growers against similar speculation. There is virtually nothing in the agenda for a new order now tabled at the United Nations which Americans have not experienced, in full measure, within this Nation.

Mr. President, I believe these observations are most relevant. It is because of our willingness to redress grievances and inequities within our own society, that developing countries look to us for leadership in redressing international equities. We have demonstrated that we can do it. Yet, we all too often become preoccupied with other concerns.

I was also struck by the following statement from Mr. Morse's speech:

Again, what is it that the developing countries are asking? I would like to quote from a finance official of a developing country a while ago, who said:

(We) are to a certain extent in the situation of a country excluded from foreign commerce. We can indeed obtain from abroad the manufactured supplies of which we are in want; but we experience numerous impediments to the sale of our own commodities . . . In such a position, we cannot exchange with Europe on equal terms; and the lack of reciprocity would render us the victim of a system which would induce us to confine (ourselves) to agriculture and refrain from manufactures. A constant and increasing necessity on our part for the commodities of Europe, and only a partial and occasional demand for our own in return, could not but expose us to a state of impoverishment . . .

And he continued, "it is for the nations whose regulations are alluded to, to judge for themselves whether by aiming at too much they do not lose more they gain."

You might be surprised to know who the official was. He was Alexander Hamilton, Secretary of the Treasury of the United States of America, writing in his famous Report on Manufactures, in 1791.

Having ourselves at one time been the victim of an inequitable international economic system, we should have a greater appreciation for the significance of the present North-South dialog.

Mr. President, I believe this speech by Mr. Morse is an invaluable contribution to understanding the concerns and plight of the less developed nations of the world, and I believe our extremely able UNDP administrator should be commended for his very astute articulation of these matters.

Mr. President, I ask unanimous consent that the speech be printed in the RECORD.

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

ADDRESS OF MR. BRADFORD MORSE

Ladies and gentlemen, I genuinely welcome this opportunity to address so distinguished a group of business and community leaders from Canada, Mexico and the United States. It is rare when I have an opportunity these days to put protocol aside, for in the world of United Nations diplomacy and development finance, we tend to deal official-to-official instead of citizen-to-citizen. I want to speak with you tonight as openly and frankly as I can about the subject of this unprecedented conference, as an American as well as a United Nations civil servant.

We have just been briefed on the overall conceptual and structural issues in the search for a new international economic—and I would add—social order on this small planet of ours. Let us approach these momentous and complex topics without fear and without resentment, recognizing—and here I speak as an American—not only the disadvantages with which we start on this quest for global understanding and consensus, but the advantages as well. The disadvantages are that we Americans have long been preoccupied with challenges from traditional major-power sources, and with employing the classic techniques of diplomacy based upon trade-offs among a handful of nations possessing varying combinations of military and economic power. Now we are confronted by challenges from two-thirds of humankind who speak at once from the awesome moral strength of poverty, the impatience of proud peoples long colonized, and from a growing realization that the rich nations need them for their survival: need partnership with them for use of the resources within their sovereignties: need partnership with them for the expanding trade which the voracious enginerooms of the rich economies

must have. I would remind you that United States exports to developing countries even now exceed $37 billion per year; more than one-third of the American export total.

The advantage which Americans have, if once it is recognized, is that virtually every one of the demands now tabled before the United Nations General Assembly have close equivalents in the demands made by the poor and the fearful, the exploited and the exploitable, within the United States during the last hundred years. I urge those of you who tomorrow will examine the demands of Third World farmers for agreed measures to protect the returns on their produce from remote international speculation and middlemen, to recall how our own Congress echoed with the same so-called "rhetoric" in the historic debates that produced the 1916 Warehouse Act; the Packers and Stockyards Act; the legislation to protect cotton growers against speculation in that commodity; and then the 1922 bills to protect grain growers against similar speculation. There is virtually nothing in the agenda for a new order now tabled at the United Nations which Americans have not experienced, in full measure, within this nation. We take exceptional pride in what we have achieved—with all its limitations—to establish a new domestic economic and social order; indeed, we proclaim it to the world. Shall we now fail to understand the very equivalent when it echoes to us from the poor and the hungry beyond our borders?

Let us be honest. We all know that the old economic order relied heavily on charitable appeals for the poverty-stricken two-thirds of humankind. In effect, we rattled the cup each year to help keep them going and maybe to fill the begging bowl to the point where we could actually help them move ahead a little. Yet despite our "charity", we have found that the further the developed countries moved ahead, the farther behind the poor fell. Something was wrong with the entire system—and not only they, but the rich countries, now know it; and it cannot continue.

What has gone wrong, been wrong? I submit that it is the very framework of relationships among nations. If I pour this water into a glass it takes one form—the form of a glass. If I pour this water onto the floor, it will take an entirely different form. The framework is all important to the fate of the water. Does it not follow that the framework for the flow of international resources—for the collective economic capacity of our little planet—is no less decisive?

In the view of developing countries it must surely be, for they have long argued that the old framework has done an exceedingly good job of spurring the flow of resources from poor to rich. What went into the begging bowl, they say, came back to the rich many times over.

The whole spectrum of economic relationships is filled with illustrations of this argument. Let me take the mechanisms governing the transfer of technology as just one case in point. It strikes me as no accident of history that 98 percent of the world's advanced technology output is concentrated in a relative handful of industrialized countries. Studies by UNCTAD, the UN Conference on Trade and Development document a wide range of restrictive practices, pricing arrangements, tied-purchase schemes, grant-back requirements and compulsory purchase mechanisms which have long accompanied technology transfers from rich to poor states. These various schemes have the effect of perpetuating the virtual monopoly exercised by the producers of technology. Taken together, they amount to a reverse system of preferences, exacted by the powerful from the weak.

Let me give you some figures which illustrate what I mean. Of the 3.5 million patents currently in worldwide existence, only about six per cent (or 200,000) have been granted by developing countries. Even of these few, five out of six are held by foreigners and only one-sixth—or one per cent of the total—are held by nationals of the developing countries. Most of the developing country patents held by foreigners are held by large corporations headquartered in five developed countries—the United States, the Federal Republic of Germany, the United Kingdom, Switzerland and France. In addition, about 90 to 95 per cent of the patents granted by developing countries to foreigners are not actually used at all in production processes in and by those countries. Instead, the overwhelming majority of these patents are used to secure import monopolies.

One United Nations study has pointed out about the small number of foreign patents which are actually used in production processes in developing countries, that (and I quote), "Even in these cases, however, the agreements, entered into by developing countries frequently contain not only high royalty payments and charges for the technology, but also restrictive practices and in some instances abuses of patent monopolies". (end of quote).

Now I want again to emphasize the paradox, which is that the advanced industrialized countries have themselves sought strongly to prohibit practices like these through strict antitrust and fair trade laws within their own borders. What the developing countries are asking of the world economy is, in a sense, nothing less than what the industrialized countries expect within their own economies. What they want is a legally-binding code of conduct governing the transfer of technology—a code which will not only call a halt to abuses but give an edge in the process to the weak instead of the strong. There are various ways of accomplishing this, and I will only mention a few.

One would be for the rich, developed countries to grant preferential tax treatment to income arising from technology transfers by suppliers to developing countries. Another would be to grant developing countries concessional terms on imports of raw materials, equipment and components for help to strengthen the bargaining power of weak states generally through the adoption of the "most-favoured-license-clause" requiring technology transfers on a nondiscriminatory basis. That is, any favourable term granted to one recipient and must be made available to all others.

These are ways of changing the framework for the transfer of technology so that developing countries have a better-than-even chance of getting ahead, instead of very little chance at all. Whatever you may think of the proposed remedies, I think you would agree with me that the old system not only failed to help the poor countries, but in many ways worked against them.

A similar case can be made with respect to the old framework for international trade. Last year the value of goods traded internationally amounted to nearly $1 trillion. If we exclude oil exports, about 11 per cent of that, or almost $110 billion was accounted for by the exports of developing countries. A small percentage, perhaps, but that was more than eight times the amount of total official development assistance provided to developing countries by all the advanced countries of Western Europe, the United States, Canada, Japan, Australia and New Zealand during the same year.

A relatively small increase in the aggregate exports of the developing countries could supply them with more foreign exchange to apply to their development efforts than all the official foreign aid they receive put together.

Now, how is it that almost two-thirds of the world's people, who collectively supply the world with much of its raw materials, account for only 11 percent of the value of world exports? I refer you again to the old structure for world trade—to the framework in which it has for years been conducted.

The years between the end of World War II and the mid-1970's witnessed a phenomenal expansion in world trade. That expansion was facilitated by substantial and repeated reductions in tariffs and other barriers over those years—you will remember the Kennedy Round. But those reductions were largely confined to manufactured products of primary concern to a handful of industrialized states in the West. Then in 1972, a number of industrialized states began subscribing to the so-called Generalized System of Preferences, specifically designed to increase the export earnings of developing countries in manufactured products, particularly. From the developing countries' point of view, the Generalized System certainly represents a step in the right direction—a new framework for international trade in which their needs are given an extra edge and their products a competitive advantage. But the Generalized System remains extremely restrictive. According to UNCTAD calculations, tariffs on developing country exports in developed country markets continue to be, on average, about 50 per cent higher than those levied on exports from other developed countries. And as a recent study by the Brookings Institution emphasizes, the economic gains which could accrue to the world economy as a whole from the exchange of labour—intensive industrial products of the developing countries and technology-intensive products of the industrial countries have still to be realized.

Again, what is it that the developing countries are asking? I would like to quote from a finance official of a developing country a while ago, who said

"(We) are to a certain extent in the situation of a country excluded from foreign commerce. We can indeed obtain from abroad the manufactured supplies of which we are in want; but we experience numerous impediments to the sale of our own commodities . . . In such a position, we cannot exchange with Europe on equal terms; and the lack of reciprocity would render us the victim of a system which would induce us to confine (ourselves) to agriculture and refrain from manufactures. A constant and increasing necessity on our part for the commodities of Europe, and only a partial and occasional demand for our own in return, could not but expose us to a state of impoverishment. . ." And he continued, "it is for the nations whose regulations are alluded to, to judge for themselves whether by aiming at too much they do not lose more than they gain."

You might be surprised to know who the official was. He was Alexander Hamilton, Secretary of the Treasury of the young United States of America, writing in his famous Report on Manufactures, in 1791. Please note that he asserted that the United States was "victim of a system." That is exactly what the developing countries today are saying; it is a question of system; of framework; of agreed mechanisms; not of ad hoc begging bowls, or however worthy humanitarian sentiments.

Today's developing countries want to eliminate the vestiges of the old discrimination against them. And they want to gain a little extra edge to help them catch up and fully integrate their own economies into the expanding international industrial system. So they want a far broader application of the Generalized System of Preferences. And since about 60 percent of their non-oil exports involve primary commodities or raw materials, they want a series of commodity agreements—and a common fund—which will help stabilize the prices they receive for their raw material exports. Many also favour a system of indexing which would adjust

the prices they receive for their commodities to inflationary trends.

When the background of neglect from which these demands have sprung is taken into account, they certainly become more understandable, and when the historic grievances of the Third World are considered, they cannot be called unreasonable. I certainly recognize that any upsurge in so-called "cheap foreign imports" would cause painful dislocations in many industrialized economies. But it is vital to realize that what is meant by a new international economic order is that all nations—the rich no less than the poor—should prepare for it by adjustments on the basis of long-term mutual self-interest. The price for industrial economies in retraining affected workers for other skills and in other ways assisting affected industries is far smaller, in the long run, than the kind of continued discrimination which places two-thirds of the world on a perpetual dole and by definition cripples them as trading partners. It is not a some-lose, some-gain, proposition. It is an all-gain proposition. There is no other way.

At this stage, it would be entirely legitimate to ask, what are the developing countries themselves doing to prepare for their partnership in a new order? As the world's largest multilateral programme for technical co-operation, UNDP is by definition involved with its 25 partner agencies in answering that question—in helping developing countries to meet the demands of the emerging world system.

For example, in the field of trade UNDP supports a $1.4 million project to provide training and advisory services on the Generalized System of Preferences, in which some 400 officials from 90 developing countries have already taken part. Under another project, more than 30 high-level officials from Latin America and the Caribbean have already participated in a UNDP-funded training programme on negotiating with foreign investors, and on the methods and procedures of transnational corporations. Governments in Southeast Asia, the Middle East, Africa and Latin America have also had regional projects which provide consultants and training assistance for officials taking part in the multilateral trade negotiations under the auspices of the GATT, General Agreement on Tariffs and Trade.

Throughout the developing world, Governments with UNDP support are making efforts to strengthen sub-regional markets, develop and diversify industries, enhance their negotiating capacity in primary commodity matters, expand exports and promote the joint marketing of commodities and develop producers' associations designed to strengthen the economic potential of developing country resources. And to encourage the development of local technology, the countries of Latin America and the Caribbean are working with UNDP on the feasibility of establishing multinational corporations within the region for the pooling of technical resources and the adaptation of industry to the prevailing socio-economic, cultural and developmental objectives of the region.

One of our main preoccupations these days is, in fact, the promotion of greater co-operation among developing countries themselves. Technical co-operation among developing countries not only helps to mobilize their growing capacity and resources for mutual self-help; it also provides developing countries with the opportunity to acquire types of assistance most appropriate to their needs. The traditional flow of technology from North to South must be greatly complemented and improved upon by increased flows among the nations of the South, themselves. I recall one forestry project in Central America, for example, in which the hardwoods of that region literally chewed to pieces saws imported from Canada, where soft woods are the dominant specie. In this case, the kind of saws developed for hardwoods in India or West Africa would have served the purpose far better. We have now developed a computerized referral service listing technical expertise available in all developing countries; and as you may know, we will have a World Conference on Technical Co-operation Among Developing Countries next year.

Over the next five years UNDP will be programming more than $2.5 billion in additional technical and investment support work in all sectors, and it is a further indication of the seriousness of their resolve that the developing countries are asking for a growing portion of this to be devoted to strengthening their planning mechanisms and administrative capacities for the structural changes that are essential.

While the immediate benefits of our work go, of course, to those countries, I am convinced that what we do will also repay the developed nations which support us many times over in the long run. For would anyone here deny that a more balanced, productive and just world economy is in the self-interest of every nation, and that by helping those farthest behind to catch up we are pushing the world as a whole ahead?

Let me conclude with a few observations on the development roles of non-governmental organizations and on their relationship with the United Nations development system. Ever since my days in Congress and before, I have admired the way NGOs get things done, get information disseminated and get public opinion changed on critical issues. No field of endeavour is more illustrative of the usefulness of NGOs than that of overseas development. Among the most industrialized countries, the centre-stage position on the "aid" front was occupied by NGOs from the turn of the century. This is particularly true of countries like the United States and Canada where organizations such as the Red Cross, the YM and YWCA, and various church groups, were carrying on development projects and providing that invaluable people-to-people link with the countries of Asia, Africa and Latin America long before official development agencies were even thought of.

To this day, in many developing countries, the most imaginative and effective development projects are those involving NGO participation, working through community organizations. The latest estimates show that some 70 NGOs in Canada contribute a total of $50 million annually to development projects and about 700 NGOs in this country contribute a total of approximately $500 million. Worldwide, the actual involvement of NGOs in field-level projects amounts to well over one billion dollars annually—that's a lot of money!

Another and closely related aspect of the NGO role in the development process concerns international volunteer service. The concept as we know it today began to find expression in the early sixties, when a handful of volunteer sponsoring organizations led by the U.S. Peace Corps and the Canadian University Service Overseas began sending sizeable numbers of young people as volunteers to work in the villages, clinics and schools of Asia, Africa and Latin America. It was in recognition of the indisputable accomplishments of these and other bilateral volunteers that the United Nations General Assembly in 1971 established the UNV—United Nations Volunteers—with the objective of allowing the youth of all countries the opportunity to use their talents and skills in the eradication of poverty and underdevelopment.

In the little more than six years since its creation, UNV has made its most significant impact in areas where it is needed most—the least developed countries of the world. Since the programme's inception, more than 700 UN volunteers of some 65 nationalities have served in over 60 developing countries—as agronomists, urban planners, foresters, nurses, doctors, geologists, veterinarians, well-diggers, social workers. And today, more than 50 per cent of all United Nations volunteers currently serving are from developing countries. Despite these unique features and undoubted achievements, however, UNV remains a relatively unknown quantity, particularly among the NGO community of North America, from which it must draw concrete support if it is to realize its goals. I therefore hope that from this Conference we can have your ideas and suggestions concerning this important programme while at the same time enlisting your support in sponsoring candidates for UNV and in helping to fund UNV projects.

After the declaration of the UN's First Decade for Development in the 1960s, more and more NGOs broadened their basic humanitarian concern to include the root causes of hunger, poverty and underdevelopment, and the more "political" but highly relevant issues of international trade, commodity arrangements, world food policy and international economic and social justice. No other form of UN activity over the past ten years has generated as much interest and participation on the part of NGOs as their involvement in the special UN conferences related to such issues—conferences such as that on the Environment in Stockholm in 1972, around which environment-oriented NGOs from the western regions of North America played a significant role . . . and then the UN Population Conference in Bucharest in 1974, the World Food Conference in Rome in 1974, the International Women's Year Conference in Mexico in 1975 and, more recently, the Habitat Conference in Vancouver in 1976. Because NGOs were ready to take a global approach to development problems, these UN special conferences have opened a new dimension in the relationship between NGOs and the UN system. I, for one, welcome this new dimension, and I particularly urge the continued broadening of your interest in the emerging world economic order, as evidenced here tonight.

A vital role for NGOs in the development process is, indeed, that of public education and political action—particularly in the key industrialized countries such as the United States and Canada. In my view, there is probably no more important role for the general purpose NGO—and for concerned citizens—than this. Lester Pearson, the late former Prime Minister of Canada who wrote the well known report, "Partners for Development", said that the front line in the battle to alleviate world poverty is often at home in the rich countries, where it is necessary to overcome "compassion fatigue" and to change the attitudes of the broad electorate on the issues of world trade, aid and international economic relations.

In this connection, I believe that no significant social legislation has ever passed through the United States Congress without the concerted and well organized support of NGOs. This is true, too, of the foreign aid bill and of the various trade and financial concessions to third world countries. The problem is that the cadre of concerned people and organizations in countries like the United States and Canada is woefully small and unevenly spread around our two countries. The exciting challenge which faces us in the present political climate is to build upon the existing organizations, many of whom are represented here, and to tap new organizational support in order to forge what should, indeed, become a new movement for the New International Economic Order. The strength of such a movement, it seems to me, should not only be gauged in Washington or Ottawa with national Governments, nor in New York with the UN, but in places

like Los Angeles and Denver and Calgary, where the lines of communications to politicians and policy makers are shorter and more effective.

I am not suggesting that the NIEO as a concept is the perfect credo for development and should be blindly supported in all its particulars. But it does provide a framework for sympathetic yet practical consideration of the plight of developing countries, and for serious discussions in North America of our role in achieving a more equitable world. The formation of new coalitions of NGOs such as the International Coalition for Development Action which was formed around the trade issues of UNCTAD IV, and the reality of this Conference which considers some very technical and complex issues, shows that NGOs are anxious to get involved in these issues and to exert influence.

Ladies and gentlemen, I have sought tonight to emphasize the worth and necessity of a new international economic order the importance of the United Nations role in helping to establish that new framework, and the valuable ways in which you and the organizations you represent can support what must, in my opinion, be done.

I am grateful for this opportunity, because, quite frankly, I have long been appalled by the widespread lack of understanding of what the proposed structural changes in the world economy are all about and by the irrational fears those changes have stirred among citizens of the wealthier countries, in particular. It seems to me that we all have a critically important job to do in overcoming those misunderstandings and exorcising those fears. For it is beyond common sense and morality to assume that we cannot find new, stable frameworks for living together on this one earth within its finite resources—and in justice and equity.

Thank you very much.

IN MEMORIAM: ROBERT B. FRAZIER

Mr. HATFIELD. Mr. President, on Sunday, September 18, 1977, one of the most influential voices in Oregon journalism was stilled. Bob Frazier, highly respected editorial editor of the Eugene Register Guard, died at his home.

As I said at the time, others may take his place at the Register Guard, but no one will replace him. His unique capacity to communicate his warmth and compassion through his writing enabled his readers to see the man behind the pen.

My warmest memories of Bob were when we would sit in his office or in mine, not talking politics, but sharing anecdotes about Oregon and U.S. political history, or describing some new acquisition of historical memorabilia or books. More than anything else, I will miss my personal friendship with a fellow history buff. As recently as 2 weeks before his untimely death, we sat in Bob's office to share yarns about our common love of Oregon history. Bob's love of history reflected itself in his columns and editorials. His affection for Eugene and Lane County were born of their history.

Mr. President, I asked friends of mine at the Register Guard to collect the articles and editorials about his life and contributions to his profession and send them to me. I want to share them with my colleagues. I am pleased that the material contains excerpts from some of his columns that I hope will help demonstrate his spirit as well as his skills.

Mr. President, I ask unanimous consent that this material be printed in the RECORD.

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

EDITOR ROBERT FRAZIER DIES AT 56

(By Dan Wyant)

Robert B. Frazier, 56, editor of the Register-Guard editorial page and a long-time Oregon newsman, died Sunday of an apparent self-inflicted bullet wound.

Frazier's death shocked friends and associates and brought expressions of sorrow from editors and public officials around the state. He had been a member of the newspaper's staff since 1948.

Police were called to the Frazier home at 369 Sunset Dr. shortly after noon when his wife, Rosemary, heard two gunshots in the bathroom, where police found Frazier dead from a .22 caliber bullet wound in the head.

Eugene Police Lt. Donald Lonnecker said results of an autopsy today showed death was caused by a single wound although two shots had been fired from the pistol. He said police were continuing their investigation to determine what happened to the second bullet.

Police listed Frazier's death as a suicide. No note was found.

Frazier suffered from emphysema, and was not in robust health, but associates said he had not appeared to be despondent in recent days. He had arranged several appointments for the coming week.

Funeral arrangements are pending at Lounsbury-Musgrove Mortuary in Eugene. Surviving, besides his wife, are a son, Joe, an Associated Press newsman in New York City, and a daughter, Constance Bloom, of Eugene.

Oregon Gov. Bob Straub called Frazier's death a tragic blow and a deep personal loss. "His journalistic abilities were always marked by fairness, intelligence and understanding," Straub said. "The entire State of Oregon will miss the rare contribution made by this outstanding man."

Alton F. Baker Jr., editor and publisher of the Register-Guard, expressed shock at Frazier's death. "Bob was a good friend as well as a colleague in newspapering for 30 years," Baker said. "His contributions to the Register-Guard as a reporter and editor and to the community and to his state were tremendous in quality and volume. Bob had a great sense of humor which makes this hard to believe. My thoughts go to his wife and family."

U.S. Sen. Mark Hatfield, R-Ore., said as recently as two weeks ago he sat in Frazier's office "to share yarns about our common interest in Oregon history. . . . Others may take his place at the Register-Guard, but no one will replace him."

U.S. Sen. Bob Packwood, R-Ore., said, "A giant of Oregon journalism is dead—a man with the rare gift to place the transient events of the moment into the broad perspective of history."

J. Richard Nokes, editor of The Oregonian, said, "Bob Frazier will go down in the history of journalism as one of Oregon's great editors," and J. W. Forrester Jr., editor and publisher of the Daily Astorian in Astoria, recalled their long-time friendship. "I guess my uppermost thought is that Bob made newspapering fun," he said. "Of course he had an influence on our state. He was editor of perhaps the most influential editorial page in the state."

Eric Allen Jr., editor of the Medford Mail Tribune and another close friend, said among his editorial writing colleagues, "Bob Frazier was acknowledged as probably the best of the lot. His ever-curious mind, his comprehensive memory, his bent for history, his grasp of affairs, was beyond compare."

Bob Chandler, publisher of the Bend Bulletin described Frazier as a "gentle, modest unassuming man," and said Frazier "would have been surprised could he have known what a yawning gap his unexpected death has left in the lives of many Oregonians."

John Hulteng, former dean of the University of Oregon journalism school who is scheduled to become a professor of communications at Stanford University this fall, said, "Bob Frazier was one of the authentically individual voices of Oregon Journalism."

Judge A. T. Goodwin, associate justice of the U.S Circuit Court of Appeals in Portland and a friend of Frazier's for 37 years, said, "His insights brightened the editorial columns of the Register-Guard for a quarter of a century—indeed made it one of the most distinguished newspapers in the land. Oregon journalism has lost one of its brightest lights."

Robert Clark, a former president of the University of Oregon, first met Frazier when Frazier was the student editor of the Oregon Daily Emerald and Clark was a speech professor. Both were members of the Eugene Round Table. Clark called Frazier's death "a tragic loss—one that all of the readers of the Register-Guard will feel, some of us personally."

Frazier was born Jan. 12, 1921, in Portland. One of his first jobs was with the CCC (Civilian Conservation Corps), an outdoor experience he always recalled with pleasure. He enrolled at the University of Oregon in 1940, served with the U.S. Army from 1942 to 1946, then returned to the U of O, where he graduated with a degree in journalism in 1948. He was editor of the student newspaper, the Oregon Daily Emerald, a member of Phi Beta Kappa national scholastic honorary and a member of Sigma Delta Chi, a professional newspaper fraternity.

As a member of the Register-Guard news staff, he worked as a reporter, wire editor, city editor and state house reporter before becoming an associate editor and editorial writer. He was named editor of the editorial page in 1969, and continued to write editorials.

During the 1952-53 school year, Frazier was a Nieman Fellow at Harvard University while on leave from the newspaper. From 1965, he served on the Editorial Board of the Nieman Reports.

Prior to joining the Register-Guard, Frazier worked as a reporter for the Bend Bulletin, the defunct Eugene Daily News and the Aberdeen Daily World.

Frazier received a variety of newspaper awards. Under his direction, the newspaper's editorial page was named the best in the state in 1976 by the Oregon Newspaper Publishers Association jury. He served last year as a judge for the Pulitzer Prize awards and had been asked to serve again this year.

He had served since 1961 as a member of the Oregon Geographic Names Board, an assignment which took him frequently to the out-of-the-way parts of Oregon like Plush and Granite, which he loved to write about. He also served on the Oregon State Parks and Recreation Advisory Committee.

The Eugene editor was a member of the National Conference of Editorial Writers, serving on its board of directors and editing its quarterly publication, "Masthead," from 1967 to 1969. He was elected to the American Society of Newspapers Editors in 1975 and was active in the Willamette Valley Chapter of Sigma Delta Chi, serving as its vice president from 1964 to 1966. He served on the White House Fellowship Judging Committee in 1974–75, served on the Governor's Task Force on Nursing Homes in 1971 and for years was a member of the Oregon Public Defender Committee. He was vice president of the Oregon Prison Association from 1950–1952.

FRIENDS BID FAREWELL TO NEWSMAN BOB FRAZIER

(By Dan Wyant)

The contributions made to journalism and to Oregon by Robert Frazier editor of the Register-Guard's editorial page and a longtime Oregon newsman, were recalled in a memorial service in Eugene Sunday.

Frazier, 56, took his own life the previous Sunday. His body was cremated and there was no funeral, in accordance with his wishes.

"There is no silence like the void where a good man was," said Oregon Gov. Bob Straub, one of three speakers at the service. "I will miss Bob, but I am a better man for having known him, and I thank the Lord for the luck that made our ways cross. My life is emptier for his having gone but it is fuller for his having lived."

Some 350 persons, many of them journalists and public leaders from around the state, attended the simple half-hour service at the University of Oregon music school's Beall Hall. Three red-and-gold floral arrangements, a set of folding chairs for the speakers and a plain wooden lectern were all that occupied the stage. University of Oregon music Professor John Hamilton provided the music on the organ at the back of the stage.

Robert Chandler, publisher of the Bend Bulletin newspaper and a long-time friend of Frazier, described the deceased journalist as Oregon's best-known editorialist of the past 20 years as well as the state's most favorably known editorial writer of that period.

"That's a rare feat," he said, "in a trade where those two things are most often not synonymous."

Chandler said Frazier "correctly assumed he was engaged in life's highest calling, the entertaining and informing of his fellow man." He said Frazier was "a true success in life because he did what he most liked to do, and did it very well indeed."

All the speakers mentioned Frazier's love for Eugene, the U of O and all of Oregon.

"He loved his family, he loved his friends, he loved his state and particularly its mountains, rivers and beaches, made for climbing and walking and watching," Chandler said. "Bob Frazier is one of those rare individuals who enriched the lives of all who knew him. There are too few of those in this world."

Charles Duncan, a former dean of the U of O School of Journalism and a professor of journalism, described the shock he and his wife experienced when they learned of Frazier's death on their return Wednesday from nine months in Australia.

"The thought of Eugene without Bob Frazier is almost uncomprehensible," Duncan said. "To me, Bob Frazier was as much a part of Eugene as the Willamette River or Spencer Butte or the Register-Guard itself. . . ."

Duncan said Frazier's journalistic style was "simple, smooth-flowing, utterly lacking in pretentiousness, yet scrupulously correct and beautifully precise," adding: "His sentences rolled from his typewriter at an awesome rate. He measured his daily output by the foot."

To Frazier, "the newspaper was his life and love," Duncan said. "His reputation far transcended the boundaries of Oregon for he was known and admired by the journalism fraternity throughout the country."

Duncan recalled Frazier's love of reading, and spoke of a column Frazier once wrote suggesting that the fate of people who failed to return books they'd borrowed might be an afterlife with good light but no reading material.

"May he find plenty of good reading material—and good light," said the longtime friend.

REMEMBERING A 'PURE WRITER,' AND A FRIEND

(By Dan Sellard)

Ever since gangly, bespectacled and balding Bob Frazier walked into my life thirty years ago, I have had an unusual friend, a fun guy. More, I have worked elbow to elbow with a journalistic giant.

We drank beer while our kids were being born, we cub scouted and boy scouted together, we went to the weddings of our kids. We enjoyed each other.

And we reported together, back in the forties and fifties when if a reporter heard a siren, he went to find out what was going on. Bob never lost that urge and I think sometimes he was happiest when there was a big story to cover.

Frazier loved the human interest piece and some of his finest prose was written about country singers and other such folks. His enthusiasm was such that he could hardly get back to the typewriter to share his fun with the readers. As he wrote sometimes, he would laugh out loud. He and Ted Goodwin and I shared a lot of laughs, some of it at Ted's behest—he talked his stories as he wrote them. Those were happy days.

But Bob really bloomed when Bill Tugman asked him to write editorials. It was then I discovered the Frazier intellect. We knew about his fabulous memory—only last week I asked him the answer to some obscure thing, and he snapped the answer back. Through the years, I have fought back the temptation to ask Frazier first, then hit the library next. He was a quick and ready reference on some of the darndest things, especially dates.

As an editorial writer, he was a dilly. He could take a complex topic and break it down into understandable English. There aren't enough people around like that.

Frazier was what I call a "pure" writer. He didn't clutter up his pieces with the "hey, look at me" stuff written by some editorialists and columnists. They cheat the reader with their fancy phrasing.

Bob wrote a sort of me-to-you type language. His writings had a ring of authority and he seldom obfuscated his stuff by extraneous material. I have always envied him, his gift.

Writing editorials was one thing, but the administrative chore of being editor of the editorial page didn't thrill him. He had to go to executive meetings and he would often cramp me with laughter as he described something that happened during one of those sessions.

To break up the routine, Bob traveled. He liked good new cars and in them he tooled around Oregon. He knew the state better than anyone else and his love for it and its people showed up in a rich portion of beautiful writing when he did a "travel piece." Ghost towns on the coast or in Eastern Oregon were a fascination for him.

I was pleased for Bob as he rose to eminence in our profession. He was known by scholars and writers and writer-scholars over the nation. And I was never surprised when this or that governor would appoint him to a commission or a committee. Some of these appointments go with the territory, true, but governors from Holmes to Straub knew that when they put Frazier on some job, he would take a lot to it, including a delightful sense of humor.

Now all this is gone. I was delegated to call Ted Goodwin to tell him about Bob's death. Ted, now a federal appeals judge, and I talked about our friend's departure for a little bit and then Ted said "Oh, dammit." and hung up.

And that says it for me, too. A good true friend is gone, but the public's loss is even greater than mine.

A SPIKED COLUMN TOLD SOMETHING ABOUT HIM

(By A. Robert Smith)

WASHINGTON.—Bob Frazier pulled rank on me and refused to publish a column I had written for the editorial page about a year ago. And I haven't forgotten it.

The incident reveals something worth knowing about Frazier, both the man and the editor.

That unpublished column reported what other newspaper editors really think about the Register-Guard editorial page. I had polled Oregon editors—promising anonymity for all of them—with this question:

If you were to rate the three best editoral pages in Oregon, what would they be in order of their high quality?

Frazier was one of the editors polled. He voted for another newspaper. Another Register-Guard editor did likewise.

Frankly, I expected quite a diversity of opinion on this question. Newspaper editors are never at a loss for opinions, and most of them are proud of their independence.

But in this case there was no diversity, little disagreement, and an overwhelming consensus: all but one editor polled said that the best editorial page in Oregon was the one edited by Bob Frazier.

The one exception said he regarded the Register-Guard's editorial page as the second best in the state.

The remarkable thing about this is that nowhere in my questionnaire did I mention the Register-Guard. These high opinions were entirely volunteered, not solicited in any sense. The results were very much on the level, an authentic, high compliment from a jury of Frazier's peers.

I've never known a newspaper to shy from publishing articles about its latest awards, from the Pulitzers on down. Every May the New York Times publishes columns of details on all Pulitzer prize winners—best editorial, best foreign reporting, etc.—and never hesitates to portray its own staff writers in this select company.

The Register-Guard hasn't deviated from the custom—best all-around newspaper, best sports page, among other awards, and rightly so. All newspapers report the awards of others, so why not tell the readers that one of their own scored in public service reporting or even the most appealing feature story by a left-handed education writer under 30 years of age?

With all this rich history of self-congratulation in the newspaper trade, with precedent clearly on my side, my column still didn't have a prayer of getting past the editor's desk. He spiked it. Bob Frazier's modesty was greater than his pride. And his talent was greater than either.

His greatest talent, as an editorialist, was for writing very readable stuff. The great risk for an editorial writer is that of becoming a yawning bore if you aren't an alarmist. Good story tellers like Frazier have an edge.

A couple years ago I wrote him a fan letter about his Sunday columns, which were folksy without being cloddish, well-informed without being stuffy, and heavily populated with a gallery of lovable rogues.

"Thank you for your kind words on my columns," he replied. "They are fun to do. Sure beats taxes and sewers. Unfortunately, some of the funniest things around are things I don't dare write about. Under the glass on my desk I have a quatrain: "It's tough to be funny for money/As you'll know if you're that way intentioned/For half of the world isn't funny/And the other half mustn't be mentioned.' "

His unwillingness to mention the foibles of his fellowman was a mark of his humanity. His unwillingness to have mentioned the results of my poll compounded the tribute paid Bob Frazier by colleagues who knew his work best.

BOB FRAZIER

Bob Frazier died yesterday at his Eugene home. It's fair to note his death is mourned not only by his many friends but by thousands of Oregonians who never had met him. He was editor of the Eugene Register-Guard's editorial page, much admired by fellow

newspapermen and by the readers he had informed and entertained throughout the years.

Frazier maintained a close connection with this part of the state, his favorite after the Eugene area. He traveled throughout Central and Eastern Oregon as a young boy with his father. He spent last Wednesday afternoon and evening in Bend with close friends. In between, one summer, he served on The Bulletin's news staff. He came here frequently, before a variety of health problems in recent years, to camp, to hike and to climb mountains.

Frazier was one of a group of then-young writers who took charge of the editorial pages of Oregon's out-state dailies about 20 years ago. Other members of the group were not ashamed to admit he was the best writer of them all. He wrote strong editorials, well-reasoned, and on occasion devastating without being mean. As a weekly columnist he was the state's best, without a close competitor.

His writing, and the recognition he gained from it, brought him several offers to join staffs of other papers, including some of the nation's largest and most prestigious. Frazier turned them down. He loved Oregon and was determined to live out his string in this state. He did.

He had suffered from health problems in recent years, and some of the joy of life had gone because of them. Bob came here Wednesday to look at the mountains; he would rather have climbed them. He traveled to the Oregon Coast to look at the beaches; he would have preferred to walk along them for miles.

Bob Frazier was a gentle, modest, unassuming man, as modest and unassuming as an editorial writer can remain. He would have been surprised, could he have known, what a yawning gap his unexpected death has left in the lives of so many Oregonians.

A Gap In The Circle

Oregon lost a good thinker this week, and they are never in abundant supply.

Robert B. Frazier, the editor of the editorial page of the Eugene Register-Guard, was found dead in his home. He had been battling emphysema and other ailments, and apparently took his own life.

He leaves a big gap in the small circle of editorial writers in Oregon, who are in a way an intimate group. They may not get together often, but they read each others' stuff, and while they may often disagree, they polish their own thoughts on the others' minds. Sometimes, one may call another on the phone for background on something that is happening in his locality.

He knew the world, and he knew Oregon. With his gangling legs he had hiked over much of it.

What Bob Frazier thought mattered.

State Loses Strong Voice

Bob Frazier was the best editorial writer in the state.

Correction. The Eugene Register-Guard writer was the best in the entire Northwest, consistently among the best in the nation.

His death Sunday is a tragic loss not only to readers of the newspaper for which he wrote; Governors, legislators and other state officials for years have weighed his well-researched and reasoned comments as they contemplated legislation and policy. Educators used his writing style and his intellectual integrity as classic examples of superior performance. His editorial page colleagues from coast to coast took note of his logic, quoted his sources and opinions and strived to match his rare ability to string words together to reflect precisely the meaning and mood he sought to convey.

Frazier loved and respected the language. So many of his op-ed pieces come to mind. A recent one on the new book by columnist James Kilpatrick, with whom he corresponded regularly; his annual love-letter on reading books; on class reunions; on turning 55. Sensitive, funny, inspiring. He was a rich storehouse of knowledge about Oregon politics, institutions and history. Maybe the Guard will now put together many of his articles for a broader audience to enjoy, since Frazier no longer can be encouraged to do it himself.

"The editorial page, we hope," Frazier wrote in a 1957 editorial quoted by John Hulteng in The Opinion Function, "will continue to be a liberalizing influence, a forum, a marketplace of ideas, a catalyst, a goad to public opinion." During Frazier's many years as editor, the Guard's page met that objective and, as a result, contributed significantly to the betterment of his community, state and profession.

"A Giant" Has Fallen

"All my working life I have paid the full Social Security tax. When it comes my turn to take it. I'll cash in and apologize to nobody. It's mine."

Robert Frazier, editorial page editor of the Eugene Register-Guard, wrote those words last year. He won't get the chance to cash in on his Social Security. He died Sunday at the age of 56. Police said he apparently took his own life.

Frazier joined the staff of the Register-Guard in 1948. He worked as a report, wire editor, city editor, Salem beat reporter and editorial writer. In 1969 he became the editor of the paper's editorial page. He also was active in civic service to his community and state. He was a member of the Oregon Geographic Names Board, and served with the Oregon State Parks Advisory Commission.

In journalism and otherwise, Frazier left his mark on Oregon. He sometimes described himself as an ordinary person, but there was much that was extraordinary about him. He was a Renaissance man in the sense that he had many broad interests and made it his business to become knowledgeable about each. Endowed with a great sense of humor, Frazier, more than anyone else, gave his newspaper a personal touch with columns that often included entertaining recollections of his youthful years.

An outstanding writer, Frazier offered readers of his editorials a lot of common sense and firmly held, often wise, opinions.

Someone who knew Frazier well described him after his death as a "giant Douglas fir in the journalism forest," an apt description in view of his stature in this forested state.

Frazier had been ill in recent years. He was plagued with emphysema, and he suffered a stroke some time ago. But this didn't affect his writing, and outwardly it least, it didn't affect his thinking.

Last year, Frazier wrote a column about middle age. In it he made that remark about Social Security. And he wrote this:

"To avoid middle age, one can die young. That doesn't sound like much fun. Or one can be really feeble, feebler than middle age, and one who has reached middle age senses what that must be like. Not much fun either."

He Was the Best

Hearts are heavy this week in the editorial rooms of Oregon newspapers. Death on Sunday took Bob Frazier of the Eugene Register-Guard and all who knew him are saying and thinking that they'll never know another like him.

He was a superb professional in a very demanding business. He was first and always a reporter which anyone who succeeds on the writing side of this business must be. He also was one of the nation's very best editorial writers.

He was one of the best informed men of his time on Oregon history. He knew the geography of the state as well as his living room because he had been in every hamlet. He knew in depth Oregon politics, past and present, through friendships with dozens of politicians.

He had a brilliant mind coupled with a wonderful sense of humor. There was no more delightful experience than an evening of reminiscing with him. He was best known as an editorial writer but some of his best writing turned up in special pieces. It was the kind of stuff he talked about through an evening of good cheer.

He was a Phi Beta Kappa who was at ease with scholars. He also was comfortable with loggers, farmers and fishermen for as a young man he'd done a lot of rousting about.

The Register-Guard has won national awards for general excellence. No small part of its stature is the newspaper's editorial page which Bob Frazier directed. The Daily Astorian's editor has been in newspapering in this state for almost 45 years and he has not seen in that time a writer better than Frazier.

Each of us in his lifetime has the experience of knowing a person or persons who made a deep and lasting impression because they were apart from all others. That's the way it was with Bob Frazier for us in newspapering. We do not expect to know another like him.

In his business he was the very best. In all that goes into making lasting and deep friendship the contributions he made will be spoken of endlessly. We admired him and we loved him.

Robert B. Frazier: Oregon's Best Writer Is Gone

(By Glenn Cushman)

When I moved to Salem in 1955 to work as a reporter for the Salem Capital Journal, there were a lot of good newspapers in the state.

One of the best was the Eugene Register-Guard.

The Register-Guard had a young fellow writing editorials who was doing the best work around, I thought. His name was Robert B. Frazier. He was 34 at the time.

Frazier had been an editor for the Oregon Daily Emerald after World War II when it was a better newspaper than half the Oregon small dailies. He hooked on at the R-G after a tour of several smaller newspapers under its then-editor, William Tugman.

When Tugman left to buy the Reedsport Courier, Frazier moved over to the editorial page to work with editor and publisher Alton Baker Jr.

I used to read Frazier every day. His writing was superb, better than any other writing in the Northwest. I didn't always agree with him. But the writing quality kept me coming back.

One day early in the 1960s, when I was working at the Bend Bulletin, Frazier and his wife, Rosemary, showed up. We were then house-sitting an estate that had a Hollywood type swimming pool.

Frazier took a liking to the pool and the adjacent bar. He stayed all day and overnight. I got to know more about this quiet genius.

He was first and last an Oregonian. He had a lot of common sense. He loved the outdoors and spent a lot of time in it until recent years when his health slowed him down.

He wasn't pompous and didn't like people who were. If he didn't think you were right, he told you so, but usually in a way that didn't offend.

Some years ago, when the Oregon Journal was on the market, a syndicate of Oregonians headed by Elmo Smith, then publisher of the Albany Democrat-Herald, tried to buy it.

Smith, who was a conservative and had been Oregon's governor, told me that he had planned to offer the job of editor to Frazier, if he could make the deal. I asked him why. Smith said that Frazier was the best editor in the state.

Smith never offered Frazier the job because S. I. Newhouse doubled the offer (to about $8 million) and bought the Journal to add to his Oregonian.

I knew Elmo pretty well. I wouldn't have thought he would link up with someone like Frazier. He went up in my estimation after that.

When the movers and shakers in Oregon want to get something done, they always ask, "What will The Oregonian think?" (That is natural because The Oregonian is the state's largest newspaper). In recent years, they have been asking in the same breath, "What will the Register-Guard think?"

That is a tribute to the influence of that newspaper. It has also been a tribute to Frazier, who provided the thoughtful editorial leadership for so many years.

Last year, I wrote a piece about the man who is now our president. I didn't think much of it until I received a note from Frazier. He said, "I didn't know you could write. Could I steal some of your stuff for a column of my own?"

That made me feel good.

Now, Oregon's best writer is dead at 56 from his own hand.

Frazier, for much of his life was a physical man of the outdoors. In recent years, he has suffered greatly from arthritis and emphysema. He had other physical problems that exasperated him and kept him from being productive.

Bob Frazier did not live a long life. He lived a good life, and contributed greatly to his native state.

BOB FRAZIER, 1921–77

This is a personal tribute and farewell to a long-time dear friend who, though personally unknown to all but a dozen or so readers of this page, had a strong influence upon it, through his personality and ability.

Robert B. Frazier, 56, editor of the editorial page of the Eugene Register-Guard, died last Sunday. He killed himself. Just why will never be precisely known, but his closest friends had become concerned about him in recent months, and had noted periods of depression, stemming from failing health.

Mentally, he remained keen and alert and humorous and quick-witted. But emphysema had slowed him down, and so had a series of little strokes, which made his gait and sense of balance uncertain.

For much of his life he was a hiker, mountain-climber, jogger, and all-around outdoorsman. Decreasing physical vigor could have caused him to fear mental debility, something he desperately dreaded from family experience.

Bob's professional life cannot be extricated from his public life. Among his editorial writing colleagues, he was acknowledged as probably the best of the lot. His ever-curious mind, his comprehensive and detailed memory, his bent for history and geography, his grasp of public affairs, was beyond compare. His professional honors were many.

He was truly one of the important men in the state, whose influence spread far beyond the confines of the circulation area of the Register-Guard. His editorials were read by every daily editorial writer in the state, and often were reprinted. In these columns in the Mail Tribune, he appeared more than any other editor, sometimes being quoted by name, often merely through ideas that were—as members of the craft say—"swiped."

He was a master of prose—and of whimsy. He was meticulous in his respect for the English language, but he knew it well enough to abuse it intentionally when he wished, to achieve the precise shade of meaning or nuance he wanted.

His service on many state boards and commissions was public service at its best. Two of his favorite were the State Parks and Recreation Advisory Committee and the Oregon Geographic Names Board, but he had also worked on a committee investigating nursing home conditions in the state (which helped lead to improved laws governing conditions in such homes), and on the public defender committee, among others.

He probably knew the state of Oregon better than any other active newspaperman, and he delighted in visiting such places as Plush, Adel, Granite, Remote and other out-of-the-way parts of the state, and to write and talk about them with charm, humor, and understanding.

It is thus that his death is a loss not only to Oregon's newspaper fraternity, but to the state at large, including those who may never have heard of him. Directly or indirectly, every Oregonian had benefitted from his enthusiasms, his gift for public service, and his intellectual stimulation and wisdom.

Honesty compells the declaration that he was no saint. He was intensely human, with his share of frailties and quirks. He drank too much. He smoked too much. He was headstrong; some might say opinionated or even pig-headed occasionally. He was—as so many of those who write for publication are—an egoist (or even an egotist: take your choice).

These failings tended to make him all the more appreciated by friends who similarly lack the status of sainthood.

Death is never easy to accept when a friend leaves, but the manner of his departure, and the loss of such talent and vitality, is a double burden of grief for his family and for those who loved and admired him.

Goodby, Bob.—Eric.

WE ALL RELIED ON BOB FRAZIER

Bob Frazier had all those qualities that make for good editorial and column writing. He enjoyed working with words, he had a phenomenal memory, a superior intellect and a total dedication to the area and the people he served.

In addition, he had a flair for humor which added popular flavor to his writing.

As editor of the editorial page of the Eugene Register-Guard, he was positioned to be interested in almost overything that occurred in Oregon. He headed a staff of three excellent editorial writers and a secretary, giving him and his colleagues more time for research and writing than is found on most other newspapers in the state.

All of us in Oregon journalism leaned on him, using his ideas to help sharpen our own. His editorials and columns were frequently reprinted in other Oregon newspapers.

His talents were recognized nationally. He was a Pulitzer Prize judge and a member of the board of the National Conference of Editorial Writers. He was a Nieman Fellow at Harvard in the 1950s.

But poor health had become almost a constant companion in recent years, sapping his vitality. He took his own life, at age 56, Sunday.

Just as the contribution of an editorial writer to the community he addresses daily is hard to measure objectively, so is his loss. But by any standard, the death of Bob Frazier leaves an unbridgeable gap, not just at the Eugene Register-Guard but in all of Oregon journalism.

[Form the Eugene (Oreg.) Register Guardian, Sept. 25, 1977]

AN OREGON EDITOR

For 23 years Bob Frazier, through his wit and brilliant writing, was a dominant force on the editorial page of this newspaper. In the history of the Register-Guard he was exceeded in continuous daily editorial writing only by his predecessor, William M. Tugman, who wrote on the editorial page of this newspaper for 27 years. However, Bob Frazier was a much more prolific writer than Bill Tugman. In those 23 years, he wrote as least 23,000 editorials plus numerous columns and essays which had an effect on thousands of people.

He had a host of friends throughout Oregon and indeed throughout the entire country. On this page today, in memory of Bob Frazier, we have collected some of the thoughts he expressed in his Sunday columns.

ALTON F. BAKER, Jr.,
Editor and Publisher.

OCTOBER 5, 1975

From a column about his days on the Oregon Daily Emerald while a student at the University of Oregon nearly 40 years ago:

For the shackrat, the Emerald experience was and always will be the high point in a university career.

A shackrat is a person who spends, or spent, a lot of time, probably too much time, in the Emerald shack, where by some miracle, the campus newspaper comes out five mornings a week.

Once a shackrat, always a shackrat.

The name, I understand, came about because the Emerald office was in an old shack before World War I. When the old journalism building was built, the paper had its headquarters in the basement, a lovely old dump with few amenities. The women's john was two flights up, the men's, at night, a block away in the old press building. Through the rain.

There we learned about journalism and friendship and human frailty. We learned to collar a news source. We learned that some people can't be trusted, but that others can. The art was to learn which is which. We learned to stay up late. And most of us fell in love at least once.

Some of us fell hopelessly in love with journalism, experiencing a love that will never die. Some drifted into professions that pay better and ask less. But even they remain shackrats.

FEBRUARY 29, 1976

From a column saluting the University of Oregon on its 100th birthday:

I love that place, the buildings, the lawns, the statutes, the library, the faculty. It's a feeling I never got at Harvard where I later put in a year.

I still know the words to the pledge song and the fight song. Because I loathe basketball and am bored by football, and because track fans rarely sing, I rarely hear those songs. But I am thrilled when I do.

DECEMBER 15, 1974

From a column about billboards:

This column is not calculated to make any friends and it may destroy old and precious friendships. Certain is the scorn, even the wrath, of my colleagues here at the Register-Guard and I risk the disdain of people I socialize with. But the truth must come out.

I like billboards.

OCTOBER 3, 1976

From a column on being middle-class and middle-aged:

The few rich people I know are either in debt up to their ears or spend all their time worrying about losing the bundle. What's so great about that?

What do people think about when they're 25? Do they think at all? I can't remember what I thought, if I did. I know I had only a vague idea of what my life would be like 30 years later. If I had known, I would not have liked it. But, looking back, I do.

DECEMBER 21, 1975

From a column telling of his doctor's diagnosis that he had emphysema:

It's not easy to develop this disease. It takes work. How many cigarettes? Say a pack and a half for 40 years. . . . Those were big smoking years. The pack and a half figure is a lie. Make it two packs.

That's 40 times 365 times 40 or 584,000. Throw in 10 leap years when you smoked just as hard on Feb. 29 as you did the rest of the year. It comes to 584,400.

You remember how you used to drive out to Spencer's Butte, romp up to the top, trot down and be back in the carport in 55 minutes elapsed time.

Then you remember maybe a week ago when you had to walk from the Register-Guard building to the Eugene Hotel, only a block, and how you stalled the trip. When you made it, you had to sit down for a few minutes to catch your breath.

Remember only a few years ago when you came home from work, put on your white sox and Adidas and jogged 10 laps, maybe 12? Now you hesitate to go to a track meet because you can't park close enough.

FEBRUARY 1, 1976

From a column admonishing schools on the importance of teaching history.

It is not literally true that history repeats itself, except that it teachers us that what was true yesterday may not be true tomorrow. The history of the human race is a history of change. The real student of history realizes humbly that at any point he may be wrong. A knowledge of history is the enemy of snap judgments and rigidity in thinking.

SEPTEMBER 15, 1975

From a column comparing his judgment of the most significant events in the last 200 years with those of six distinguished historians and the editor of a bicentennial edition of Life magazine:

Sometimes the editors seem to confuse long-range significance with hot news. One of the dates listed in 1927, when Charles Lindbergh flew across the Atlantic alone. Nonsense.

That was a whale of a news story, to be sure. But, in the long run, it didn't mean much. Others had already crossed the Atlantic, but not alone. Few cross it alone now. It was big stuff in 1927 because it was a fine act of derring-do at a time when the country needed a hero. Far more significant was the development of commercial aviation, not noted (by the editors).

JULY 2, 1972

From a column about the signers of the Declaration of Independence:

Right above the famous signature of John Hancock on the Declaration of Independence there appear the words . . . "mutually pledge to each other our lives, our fortunes and our sacred honor."

Who were the 56 traitors and outlaws (in the British view) who pledged so much? Did they prosper or suffer, grow to fame or end in obscurity?

Some had some rough experiences, risking both life and fortune and in some cases losing both. Five were captured by the British as traitors and were tortured before they died. Twelve had their homes ransacked and burned. Two lost sons in the Revolutionary War. Nine of the 56 died either from the war itself or from hardships connected with it.

At Yorktown, the final real battle of the war, Thomas Nelson of Virginia learned that General Cornwallis was using his home as headquarters. Nonetheless, he urged General Washington to open fire. The house was demolished and Nelson died bankrupt.

JULY 5, 1970

From a column about the Declaration of Independence:

The only time I ever saw it (the original) was in late 1944, when I was still stationed in Washington. I went to the Library of Congress especially to see it. As I looked at it I suffered an attack of goose bumps that must have been visible all the way through my buck sergeant stripes. And I can get goose bumps today just from looking at its picture.

AUGUST 30, 1970

From a column comparing the Kent State tragedy with the Boston Massacre 200 years before:

In both cases, the troops were overarmed. The guardsmen at Kent State used M–1 rifles, weapons that can kill at two miles. The British troops in Boston used the "over-the fireplace" musket, known as the "brown Bess." It was a fearsome thing, highly inaccurate, but deadly if fired at close range. It hurled a two-ounce chunk of lead and could kill at from 70 to 80 yards if the lead hit the target. It often did not.

The musket did not even have a rear sight. Soldiers lined up in formation and pointed the weapon in the general direction of the enemy. Then they turned their heads to avoid the blast that could put out an eye and pulled the trigger. By the law of averages, something or somebody might get hit. If somebody did get hit at close range, he would bear a hole the size of a doorknob.

MARCH 27, 1977

On people who don't return books:

Everybody has little lists of people who are on little lists. One of the little lists is of people to whom one will never again lend a book.

Such lists are built of experience. Some people, models of citizenship in other respects, even church-going, just don't return books, not even after the third or fourth reminder. A special place awaits them in the afterlife, a place with no reading matter and good light or plenty of reading matter and bad light.

MAY 18, 1975

From a column reflecting his love for books—all books—and how he used them:

Here is what I know about architecture: The roof is supposed to keep the rain out.

However, that somewhat limited knowledge has not prevented my spending several delightful evenings curled up with "Space, Style and Structure," a two-volume history of building the Northwest.

Although this work is ostensibly about building and architecture, I found it a treasure of social history. If a person knows where people lived and worked, he can imagine what their lives were like. I skipped rapidly over many of the architectural details and tried to understand why the buildings were built the way they were.

JANUARY 10, 1977

From a column about the Capitol press corps which illustrated his passion for trivia and his delight when people could one-up him, which was rare:

I can't forget Harry Bodine of the Oregonian, a man with an elephantine memory. Once Harry and I were trying to impress people with trivia. I pointed out owlishly that President Millard Fillmore, after leaving office, ran in 1856 on the American Party ticket.

"Yes," said Harry, "and carried Maryland."

How do you beat that?

JANUARY 16, 1977

From a column on a favorite topic—our crazy, mixed-up language:

I have in my home probably 40 dictionaries, including all those big Websters, the Oxford English Dictionary, the original Century, all definitive, plus almost all the common desk dictionaries and a stack of paperbacks. They're scattered around in every room in the house and one lives in my suitcase. Some I have worn out. Hardly a day passes that I don't use the dictionary a half a dozen times.

That still doesn't explain to me why definitive isn't definitive. Why does dead rhyme with bed instead of with bead?

Try to make sense out of dose, rose and lose. Why should a capital letter change the pronunciation of job, polish and couch?

A person has to learn his way into any language. This one is more difficult than it needs to be, but only because we permit it to be. I love the language, the major tool of my trade. . . . I'm glad, though, that I don't have to start learning it from scratch.

APRIL 11, 1971

From a column spanking the South Lane School Board at Cottage Grove for seeking to fire a teacher for use of a foul word in her classroom:

There is a word that begins with "s." It ends with "w." Squeezed obscenely amidships are the awful letters "cre."

The American Heritage Dictionary gives this naughty word 14 definitions as a noun and 13 as a verb. . . . It is also possible, according to the dictionary, to have one loosc.

This would be trivial information except for the fact that the South Lane School Board is making it important. They want to fire a teacher because she assigned a poem containing that unspeakable word.

Now I don't know any Cottage Grove teenagers, but I know some in Eugene. And I suggest it would be more appropriate for the board to give the teacher a medal for helping her charges scrub up their little vocabularies.

NOVEMBER 1, 1970

From a column lamenting the end of the Register-Guard's election night special edition:

It is a sad fact that whenever romance and technology meet, technology always wins. They have met, and technology has won again.

The Register-Guard Tuesday night will not count the vote and will publish no election night special edition for a few night owls who can't wait to see who won.

It's a sad thing, as sad as the demise of the "extra."

I have worked 25 election nights, primary and general . . . They were great nights, full of memories, fatigue and too much coffee.

In Lane County, until this month, the newspaper has always counted the votes. The official count followed by three or four days. But now Lane County has voting machines in every precinct. The official totals will be avaliable at the turn of a switch. The carrier boys, the girls on the adding machines, the reporters, the headline writers, the editors all have been replaced by a mechanical gadget, a computer.

JULY 14, 1974

From a column bemoaning the end of the old newspaper backshops:

Today's production department is more like a modern airport, except it doesn't have a bar.

AUGUST 1, 1976

From a column recalling some national political figures he had met over the years:

I could never find it in my soul to believe in Richard Nixon. But every time I ever saw him, and there must have been half a dozen or more such times, I came away with an admiration for him as a man worthy of any other man's steel.

Lyndon Johnson mesmerized me both times I saw him, although I knew that both he and I knew what he was doing.

I first met John F. Kennedy when he was a junior congressman running for the U.S. Senate. I knew I was in the presence of somebody who would go a long way.

But brothers Bobby and Teddy sent alarm bells going off in all directions. No way. Not that they weren't pleasant enough, but they just didn't come across as sincere. Jack did, whether he was or not.

Very few have I really disliked. One I disliked instantly and disliked more the longer I talked with him was Sen. Joe McCarthy. Evil incarnate, I though to myself. And I was right.

JANUARY 1, 1975

From a column of thoughts on the dawn of the last quarter of the 20th Century:

When I think of the century and chop it into quarters, I think of the mile relay. As each runner nears the end of his quarter-mile lap, another runner falls into step, picks up the pace and grabs the baton for his own lap. The previous runner disappears onto the sidelines, unnoticed by the crowd that is watching the new runner.

My grandparents were about 40 in 1900. They had the baton, which my parents picked up about the time of World War I. I fell in step about the time of World War II and picked up the baton in the early fifties. I am still carrying it.

Now my children, 30 and going on 24, are starting to fall in step. Soon they will take it from me and it will be all theirs. I'll disappear onto the sidelines as my parents and grandparents did.

AMERICAN POLICY AND EUROCOMMUNISM

Mr. ROTH. Mr. President, there has been considerable debate over the direction that American policy should take regarding the possible participation of European Communist Parties in several Western European governments. There are some who believe that Eurocommunism does not represent a serious threat to Amercian interests and that, in any case, there is very little we can do to prevent Communist participation in Western European governments. In contrast, my view is that Communist participation would seriously jeopardize the Atlantic alliance and call into question the fundamental assumptions on which the balance of power and peace of Europe have been maintained for more than three decades. I also believe that the United States retains many friends and substantial influence in Western Europe and that we should use this influence much more positively to support the democratic forces which share our own political, economic, and social values.

The cause of the current American ambivalence toward Eurocommunism has been the shifts that a number of major Western European Communist Parties have made in recently stressing their independence from Moscow and their adherence to parliamentary democracy. While there may be some genuine differences of interests between Moscow and some of the European Communist leaders, this should not blind us to the very much greater differences of interests and values between the United States and the Western European Communists. Nor should we be deluded by the recent "conversions" of Eurocommunists to parliamentary democracy, in contradiction to the Communist belief in the necessity for a dictatorship of the proletariat and the very strict and dictatorial internal party structure of the Western European Communist Parties themselves.

As former Secretary of State Henry Kissinger has pointed out in a recent speech on Eurocommunism, one can find many statements by Eastern European Communist leaders supporting parliamentary democracy just prior to the creation of their satellite dictatorships in the early years after World War II. History has shown time and time again that once installed, no Communist Party has ever permitted itself to be voted out of office.

Why would the participation of Eurocommunists in the governments of such countries as France and Italy jeopardize important American interests? In the first place, the credibility of NATO would be called into question. The remaining NATO allies would face the difficult choice of sharing military secrets with a government that included the Communists or in effect removing that government from NATO military planning. In either case, the military and psychological effectiveness of the alliance would be undermined, creating a crisis of confidence in the continued security of Western Europe. This in turn would depress investment and economic growth throughout Western Europe, and the repercussions would be felt in the rest of the free world.

Moreover, the fundamental basis on which the Western alliance has been based would be eroded. Cooperation among the Western nations rests squarely on our common commitment to certain values, most importantly to the concepts of participatory democracy and free enterprise. The entry into the governments of our allies of major groups who do not share these values would muddy the purposes of the alliance and weaken its popular support. It would make very difficult, if not impossible, cooperation on many issues involving the world economy, the international energy problem, and our relations with Third World countries.

I believe that the United States should make a much more affirmative effort to strengthen our support for the democratic forces of Western Europe and point out the dangers of Eurocommunist participation in Western European governments. To be silent merely encourages the Eurocommunists and discourages our friends. It suggests that the United States, still the free world's largest and most vital Nation, has lost its will in opposing those whose values are so fundamentally antithetical to our own. As a nation concerned about human rights, we should not only speak out on behalf of those who have already been denied such rights by Communist or other dictatorships, but we should also be deeply concerned about the possible loss of such rights by potentially new dictatorships. As a nation deeply committed to democracy, we should be counted in support of the genuine democratic parties of Western Europe. America is a country which commands great prestige in Italy and many other nations of Western Europe and our forthright voice in support of our friends would play a very important role in helping preserve democracy, human rights, and free enterprise in the nation to which so many of us have continued family and sentimental ties.

IN MEMORY OF ROWLAND F. KIRKS

Mr. DECONCINI. Mr. President, our country, and particularly the Federal judicial system, lost one of its most dedicated public servants Wednesday with the death of Gen. Rowland F. Kirks, Director of the Administrative Office of the U.S. Courts. Although I have been privileged to have known and worked with General Kirks for only the past 6 months in my capacity as chairman of the Subcommittee on Improvements in Judicial Machinery, it has been clear that General Kirks was a very special man who brought the highest standards to his position and who commanded the highest respect and loyalty of all who came into contact with him.

General Kirks was successful in several careers before he became Director of the Administrative Office of the U.S. Courts.

Born in Washington, Mr. Kirks was a graduate of Virginia Military Institute. He received bachelor's and master's degrees in law from National University. He was an asisstant professor of law there while earning a doctorate of judicial science.

A cavalry officer, he was called to active duty in World War II, and was sent to Europe as the 9th Army's chief of combat intelligence. He also was chief of foreign trade at headquarters of the U.S. group control for Germany.

After the war, Mr. Kirks returned to National University as a professor of law. He became dean of the law school in 1949, and president of the university in 1953.

He was with the Justice Department in 1952–53, and met another assistant attorney general, Warren E. Burger. It was the beginning of a close friendship.

Mr. Kirks left National University in 1954 to become legislative counsel for the National Automobile Dealers Association. He left that organization in 1960, and for the next 10 years was general and director of government relations of the American Textile Manufacturers Institute.

He was textile industry adviser to the Federal Government's delegation negotiating trade and tariff agreements in Geneva in 1961–1962.

Mr. Kirks was one of three incorporators of the Supreme Court Historical Society. He was a member and former chairman of the advisory board of the Salvation Army and a life member of the Kiwanis Foundation for Crippled Children.

He was a member of the American and District of Columbia Bar Associations and admitted to practice before the Supreme Court.

He held the Valley Forge Freedoms Foundation George Washington Honor Medal and the Distinguished Service Medal, the country's highest noncombat decoration.

At the time he was appointed Director of the Administrative Office of the U.S. Courts, Mr. Kirks was a major general

in the Army Reserve and commanding general of the 97th Army Reserve Command.

General Kirks was innovative and continuously strove to modernize and make more efficient our Federal court system.

He introduced broad programs of computer controls, new methods of statistical analysis and a new method of jury utilization, the latter alone has saved more than $2 million annually. His tenure as director saw the creation of the new profession of court administrators and his work was a major factor in this development.

It is sad to see the passing of a man who has achieved as much as General Kirks did, but his achievement will live on and shall serve as a living memorial to the services he performed.

I wish to extend my sympathy to his wife, children, and mother, all of Washington, D.C.

FORMER SECRETARY OF JOINT UNITED STATES-PANAMA LAND COMMISSION SPEAKS ON U.S. TITLE TO LANDS IN CANAL ZONE

Mr. HELMS. Mr. President, many people have been trying to perpetrate the myth that the United States somehow "stole" the Canal Zone or did not pay the fair value for it. The truth of the matter is that we paid Panama $10 million in gold, and we paid France $40 million for the improvements France had erected in its bankrupt failure to build a canal. We also paid all individual property owners in the Canal Zone for their individual rights.

Nor did we simply pay property owners who held authentic titles in the sense of Anglo Saxon law. We bent over backwards to insure that even squatters were paid for their improvements.

Mr. President, I know this is a fact because one of my constituents, Mr. J. C. Luitweiler of Tryon, N.C., now 87 years of age, was the secretary of the Joint Land Commission by means of which property owners in the Canal Zone were compensated.

He has written me an extremely interesting and important letter testifying to his firsthand knowledge of what transpired in this situation. The letter in itself is an historical document that contributes to our knowledge of those events.

I want to thank Mr. Luitweiler for taking the time to share with me his intimate knowledge of those historical facts.

I might also add, Mr. President, that every one of the titles thus transferred is registered in the U.S. district court in Balboa and is available there for inspection by any interested parties. I understand that duplicates are also in Archives in the United States. Let no one then say that we seized the territory and did not pay just compensation. The facts are otherwise.

Mr. President, I ask unanimous consent that the letter sent to me by Mr. Luitweiler be printed in the RECORD.

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

Hon. JESSE HELMS,
Washington, D.C.

DEAR MR. HELMS: I listened recently to you and Senator Thurmond's interview on Station 4 on the Panama Canal proposed treaty. There is so much published about this matter which is grossly inaccurate, that I'm glad you had this interview.

We didn't take or buy the Canal Zone from the Republic of Panama. By treaty with Panama we agreed to pay Panama $25 million for the right to continue the construction of the Canal the French had started. In addition we made a deal with the French to acquire whatever rights they had. Ownership by our government of the land of the Canal Zone came about much later by reason of the terms of the treaty with Panama, which gave us the right to acquire by expropriation whatever land and property the United States considered necessary for the construction, maintenance and defense of the Canal. It wasn't until 1913 that Col. Geothals, the builder of the Canal, asked President Taft to invoke this provision of the treaty to acquire all of the Canal Zone land. The Canal Zone was flanked by an almost impenetrable jungle. Col. Goethals had the idea that allowing the Canal Zone itself to return to its original jungle state would be the best defense the Canal could have against outside attack.

So, again according to this treaty with Panama, a joint commission was set up, consisting of two Americans and two Panamanians, a judicial body to evaluate the value of the land and property expropriated. It was a procedure similar to the well-known right of eminent domain whereby an American state condemns land and pays the owners for it when it desires to put through a superhighway. There was nothing high-handed about this. In fact it had the whole hearted approval of the then government of Panama. The President of Panama appointed two outstanding Panamanians (incidentally who had been at one time presidential candidates) to be members of this Joint Land Commission. As a clear indication that it had the full approval of the government of Panama at that time, the President of Panama offered the Commission the use, without payment, of the legislative assembly hall for its court hearings, and additional quarters in the Panamanian government palace for the judges' chambers and offices for the Secretariat of the Commission. The writer of this letter was appointed by the two American and Panamanian members as the Secretary of the Commission. As Secretary he sat in all the court proceedings and attended the deliberations in the Commission's chambers and signed the many orders of payments "By order of the Commission". At the age of 87 I am perhaps the only one alive who has personal knowledge of these happenings.

Col. Goethals, in the building of the Canal, had virtually autocratic powers on the Canal Zone. When the American Commissioners first arrived from the North, he offered to provide the Commission quarters at his headquarters on the Zone. He had fully expected that the Commission would be under his thumb and would follow his dictates as did everyone else working in the Canal Zone. This was countered by Dr. L. S. Rowe, the first president named by the Commission, who told Col. Goethals that the Commission was a judicial body and in no sense under his direction. So the relations between Col. Goethals and the Commission from the outset were strained and became stormy as the year passed.

The first and underlying issue that arose was the question whether the Commission would apply the laws of the United States or the Spanish Civil Law which was the law of Panama. Col. Goethals had been advised by his attorney, Judge Feuille, that the thousands of squatters scattered over the Canal Zone had no title to their homes they had established and could be evicted at will by the Canal Zone authorities. Under American law squatters do not acquire title except after 30 years of adverse possession. Thousands of negroes from the Carribean islands had come to work first for the French and had continued to work for the Americans. But there were few indeed who had been on the Zone for 30 years. In contrast, under the Civil Law of Panama squatters cannot be evicted except upon payment of the value of their improvements.

The Commission debated for a month or more this question whether they would apply the American law or the Spanish Civil law. The Panamanian members of the Commission were very able men. They spread before the two American Commissioners (both of whom spoke Spanish) law books to make their point that the Spanish Civil law should govern. The Americans finally accepted the Panamanians' views and it was announced that anyone living on the Canal Zone should be paid fully for what they owned before eviction. Moreover, once the Americans conceded the point, they went along with the Panamanians that the payments should be generous and also that humanitarian considerations should enter into the fixing of the award.

I can recall as though it were yesterday the rules they laid down. A mud thatch hut which can be erected almost overnight, should be given a value of $50. Small plantings of an orchard of a few banana and other fruit trees should be paid for with another $50. If there was a wife and children, another $50 should be added for each of them. And finally, if the squatter was a Panamanian citizen, the award should be doubled. To avoid cluttering the court's calendar with the testimony of thousands of small claimants, the application of this formula was delegated to the Secretary. After he had established the facts, the Secretary would present to the Commission the names of the claimants and the schedule of payments due him, which would be approved by the full Commision and the awards would be published: "By order of the Commission—J. C. Luitweiler, Secretary".

When the decision of the Commission first became known to the Zone authorities it aroused the wrath of Col. Goethals. Agents were sent out all over the Zone to evict squatters and burn down their homes. Another measure was taken, applied especially to small towns that had sprung up, to have the occupants of buildings sign leases that gave the lessor, the Canal Zone authorities, the right to evict tenants on short notice.

To counter these actions by the Zone authorities, the Commission's Secretary was authorized to employ agents of the Commission to canvas the Zone, taking the names of occupants of buildings and the primitive huts, note the number in the family and list their possessions. Most of the reports that came back to the Secretariat were very simple: Name and number of occupants and 'mud, thatch hut' and 'a few banana trees'.

There was of course the hullabaloo over this, but the Panamanian populace loudly acclaimed the Commission for its generous treatment of the evictees. Payments of the claims were duly and promptly honored the very day they were presented to the Zone's Disbursing Office. In total amount these small claims probably amounted to hundred of thousands of dollars, but this was a pittance compared with the cost of the Canal project costing hundreds of millions.

Of course, the American members of the Commission and its Secretary soon became persona non grata to Col. Goethals. At the end of the year the Secretary, stricken with a severe case of malaria, was invalided home.

The two American members of the Commission resigned in disgust and went home also. The work of the Commission was still far from finished. So Col. Goethals had two other Americans named in replacement, men more of his own persuasion! The Secretary wasn't invited back! When this new Commission reconvened, there were some large cases on the calendar, such as a large cocoa plantation owned by an English firm, which the old Commission had had before it and had considered the amount of the claim exorbitant.

The new Commission quickly deadlocked. Pursuant to the provision of the treaty in such case the Spanish government was authorized to appoint an arbiter, which was done, naming a Spanish Admiral who had faced the Americans in the Cuban war. I do not know precisely what was the final outcome, but I'm sure it wasn't favorable to the Americans.

It should be clear from this recital that all the property on the Zone was expropriated and paid for by the U.S. Government. There was no "high-handed taking" of the Canal Zone. At the time the Canal was opened (1914), the Panamanians were very happy with the outcome. In subsequent years when I passed through Panama en route to South America on several trips I never heard any complaints that the Americans had mistreated Panama or its people. In fact, the Panamanians were the chief beneficiaries of the building of the Canal and the resulting commerce.

Cordially yours,

J. C. LUITWEILER.

UNITED STATES-LATIN AMERICAN RELATIONS—HOPEFUL SIGNS ON THE HORIZON

Mr. HUMPHREY. Mr. President, the dramatically changing currents of political and economic life in the Western Hemisphere are suddenly everywhere apparent. There has been the establishment of "interest sections" between the United States and Cuba; the wide-ranging series of high-level U.S. missions which have visited Latin America since President Carter took office last January; and the breakthrough in negotiations between the United States and the Republic of Panama over the future of the canal.

As one swallow does not make a summer, neither does movement alone indicate that the United States has formulated the lines of new policy relationships with Latin America. But it is obvious that President Carter is preparing the ground not only for a reexamination of U.S. policy toward our neighbors and friends to the South, but that it is actually producing some striking results. It is also apparent that none of these exciting initiatives by the President can achieve lasting success unless the Congress understands them fully and cooperates, in accordance with our constitutional responsibilities, as an equal partner in shaping the new proposals into firm national policy commitments.

Mr. President, two statements have recently appeared which focus on some of the principal matters of interest to our Latin American and Caribbean neighbors. The first is an article in the August issue of the OAS' Americas magazine which analyzes Latin America's perceptions on the Seventh General Assembly of the OAS, which was held in Grenada during the month of June. The second is a wide-ranging address dealing with the need to modernize the "special relationship" which has traditionally existed between the United States and Latin America. This address was delivered by the distinguished OAS Secretary General, Alejandro Orfile, to an August 19 Sister Cities Convention held in Palm Springs, Calif. Mr. Orfila's views provide a thoughtful and sobering examination of the present and future role of the OAS.

I think Members of Congress will gain some important insights into the workings and potential of both the OAS and the inter-American system if they carefully study these statements.

Mr. President, I ask unanimous consent that these statements be printed in the RECORD.

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

STALEMATE OR CATALYST?—THE SEVENTH GENERAL ASSEMBLY

(By Francis X. Gannon)

During the past few years new winds have been blowing across the inter-American system. Traditional geopolitical and security concerns remain of paramount importance, but OAS member countries are increasingly searching for different ways to respond to the new development agenda before the Hemisphere. A broad range of development issues such as trade, finance, and energy confront the region. Gradually, but surely, effective common action on this agenda could conceivably help to stimulate creation of a transformed juridico-political system among the American nations.

Such a transformation would not take place overnight. To the contrary, it would be preceded by prolonged debate, testing, and experience within the Organization of American States and principally within such regional conferences as the recently concluded General Assembly.

This annual assembly—the supreme organ of the OAS—offers the Foreign Ministers of the Americas an annual opportunity to chart new directions for the world's oldest regional body. As the preeminent inter-American forum it invariably serves as the focal point for testing new concepts and proposals, while also stimulating efforts to improve the work of the complex variety of bodies and agencies that carry out the purposes and functions of the OAS.

A retrospective assessment of the 1976 meeting at Santiago, Chile, where the Foreign Ministers had some forty topics on their agenda, indicates emerging Hemisphere concerns. The 1976 meeting covered such matters as a draft instrument to define cases of violations of the principle of nonintervention; a draft convention on extradition; information on the constitutional evolution of nonautonomous territories in the American Hemisphere; and proposals aimed at strengthening the defense of human rights. Viewed separatedly, the importance of each of these issues is not readily apparent, but they take on a critical importance within the context of efforts to transform the inter-American system.

Importantly, for the first time in 1976, the Foreign Ministers not only "took note" of the reports made by the Inter-American Commission on Human Rights, but also gave the Commission's Chairman the opportunity to take the floor and present that body's findings. Women's rights also received attention at Santiago as the Assembly approved a resolution designating 1976 through 1985 as the "Decade of Women" in the Americas, the themes being equality, development, and peace. Efforts to safeguard the archaeological, historical, and artistic treasures of the Americas resulted in approval of the Convention of San Salvador. Environmental concerns were evident as the Assembly sought to strengthen programs in the Hemisphere for nature protection and wildlife preservation. And the OAS General Secretariat was directed to consult with the governments of the Central American region on the possibility of developing an early warning network for earthquakes, a measure proposed following the natural disasters that struck Nicaragua in 1973 and Guatemala in 1976.

In addition to other actions the 1976 General Assembly also determined to hold two special assemblies: one concerning inter-American cooperation for development, and the other to consider proposals for restructuring the inter-American system.

This year—1977—the Foreign Ministers met on the territory of one of the newer and smaller member states of the OAS. Volcanic in origin, Grenada, an independent member of the British Commonwealth, is part of the Windward Islands and lies in the Lesser Antilles group in the Eastern Caribbean. Its population is approximately 108,000.

Grenada's size offered a sharp contrast to larger OAS members like Argentina, Mexico, Brazil, and the United States, which also possess one vote each in the twenty-five-member OAS Assembly. But the holding of the Assembly in that nation evidenced that juridical equality among all states remains a cornerstone of the inter-American system. It also symbolized the growing importance of this region in Hemisphere affairs.

As in previous Hemisphere conferences, the agenda, as its first order of business, included reports and activities of the various OAS councils and specialized bodies. In addition, substantial discussion on a variety of critical issues touched on:

The status of negotiations between the governments of Panama and the United States on the Panama Canal;

The work developed for the special General Assembly on cooperation for development;

Plans for the Decade of Women and inter-American action on behalf of indigenous populations;

The constitutional evolution of the nonautonomous territories in the American Hemisphere, including the future of Belize;

Problems associated with transnational corporations and the U.S. Trade Act of 1974; and

The state of human rights in the Americas.

Not all issues before the Seventh General Assembly were, of course, of equal value and importance. Still, the depth of the agenda mirrored both the dynamic involvement of the OAS in areas of major Hemisphere importance and the changing framework of inter-American relations.

To the delegations present at Grenada in June, there was substantial evidence that the OAS had made progress since the previous meeting at Santiago. Under the aegis of the Permanent Council, for instance, preliminary drafts had been prepared for two new and significant inter-American conventions: one on cooperation for integral development and the other on collective economic security.

Other OAS bodies were equally active, including the Inter-American Council for Education, Science, and Culture, which not only supported basic scientific and educational programs, but stepped up its efforts to help Latin America find alternative energy sources to fuel future development needs. Efforts of the Inter-American Economic and Social Council focused on amending the U.S. Trade Act so that Venezuela and Ecuador could be included in its provisions and on improving Latin American trade access to the U.S. market.

Also, during the preceding year the Secretary General had, at the request of the gov-

ernments of El Salvador and Honduras, served as a moderator in the conversations that led to the signing of an agreement whereby those OAS republics adopted a mediation procedure for their dispute. In technical cooperation programs with member countries, the OAS direct services, which touch hundreds of communities, increased by a substantial percentage over the average of previous years. While the Organization is not designed to provide large-scale funding of the investment projects of its members, it engages in a range of development activities through approximately 1,000 technical assistance missions and some 2,000 fellowships each year.

Additionally, the OAS was strengthened in other direction's during the year. Evidencing this at the Grenada meeting were:

The continuing growth of the Orangization, as reflected by the participation of Surinam as the twenty-sixth member. Formerly a Dutch colony, Surinam, a tropical country of some four hundred thousand people, is located on the northeast corner of South America, on the Atlantic Ocean. Its main production is bauxite, the aluminum ore.

The growing involvement in the OAS of extra-Hemisphere nations. Also participating in an OAS General Assembly for the first time was Egypt, a Permanent Observer nation.

The continuing improvement in the financial condition of the Organization of American States. The Organization, the delegates were advised, would complete its interim financial period on June 30, 1977, in a financially improved situation. Arrears in quota payments had been reduced. A successful austerity program had held expenditures in line despite serious inflation throughout the Hemisphere.

In addition to the matters on the formal agenda the various delegations, in private discussions and in briefings for more than one hundred journalists covering the conference, touched on major issues and challenges that may increasingly come to the forefront in Hemisphere affairs, including that:

The OAS must find broader mechanisms for better integrating the diverse experience, culture, and tradition of the Caribbean countries into the long-term process of enriching and perfecting the Hemisphere system;

The Organization's largest member—the United States of America—was reexamining its interest in the Hemisphere, as witnessed by a round of high-level visits from U.S. delegates, including the First Lady, Mrs. Rosalynn Carter, to its Southern neighbors. This U.S. concern for Hemisphere affairs has tended so far to focus heavily on human rights issues. At the same time, however, it has stimulated expectations that broader U.S. policies for strengthening regional relationships and regional development might eventually begin to emerge; and

The growing recognition in the Hemisphere that the emergence of much of Latin America into the ranks of the world's middle-level developing nations has been accompanied not only by a growing sense of self-confidence among all Hemisphere countries, but also by an increasing horizontal cooperation between all OAS member states, large and small. There is a significant increase in the assistance provided by the countries of the region to one another at a time when one-way flows of assistance from the U.S. are being reduced.

In this situation what seemed of note at Grenada, therefore, were not the divisions but rather the degree of common interest expressed by the OAS members in strengthening the Organization's work for regional peace and development. One area that stood out at the Assembly was, of course, the sharp debate over protection of human rights. Press comment on this varied. Karen de Young reported in The Washington Post, for instance, that the significance of this debate was not its acrimonious shape but that it provided a ". . . strong indication that many Latin nations are very bit as concerned about human rights as the Carter Administration."

Other editorial reaction was less sanguine on this point. A number of press reports noted, for instance, that while the Assembly approved four resolutions dealing with human rights, including one that stated that ". . . there are no circumstances which justify torture, summary convictions or prolonged detention without trial contrary to law," approval of this resolution came from only fourteen OAS members.

Another critical resolution in this area emphasized the linkage between economic and social justice and human rights. While the Assembly did not accept a subsequent proposal to link resolutions dealing with human rights and terrorism, it did urge the OAS Permanent Council to continue its examination of specific aspects of terrorism and called upon OAS members to sign and ratify the 1971 Inter-American Convention to Prevent and Punish Acts of Terrorism.

Beyond the issue of human rights and terrorism, which tended to dominate press coverage at Grenada, the Assembly also dealt with more than thirty other matters of urgent Hemisphere interest: general, legal, political, economic, and cultural. Some fifty-four resolutions were adopted, establishing guidelines for OAS action over the next year and beyond. These resolutions, among other questions, touched upon:

The priority of strengthening the mechanism of CECON, the Special Committee on Consultation and Negotiation, which provides leadership on Hemisphere trade questions;

The need to carry forward the work on the proposed Special General Assembly no Inter-American Cooperation for Development;

A five-year plan on Inter-American Indian Action, entrusted to the Inter-American Indian Institute;

Activities to mark the two hundredth anniversary of the Honduran scholar, José Cecilio del Valle, one of the major pioneers of the Pan American Movement;

Recommendations that the U.S. Government amend its 1974 Trade Act in order to delete the discriminatory provisions excluding Ecuador and Venezuela from the Generalized System of Preferences; and

The position that any action taken by international and regional lending agencies be kept independent of considerations of any nature that may be in conflict with internationally accepted objective criteria.

The results of the Seventh General Assembly were given mixed reviews by media editors and news commentators. *Clarin*, the liberal Argentine daily, reflected one view as it commented that the OAS conference "had closed its deliberations without finding an answer to many of the pressing problems facing the Hemisphere." And the London-based Latin America Political Report saw the gathering as "less of an arena for solving problems than for voicing them." Various news sources agreed that the Assembly demonstrated that Latin America and the United States were both equally concerned with protecting human rights, even though there are differences in applying this concern to pratcical realities. Also, Latin American sources expressed concern about the Assembly's apparent lack of progress on development and trade issues. For the most part, however, the Assembly received good marks from the news media, which saw voicing of problems as integral to their resolution.

Several other key conclusions seemed to be drawn by those covering the Grenada Assembly, including that:

Regional economic issues were not given major attention by the Foreign Ministers; they were nonetheless visible, especially offstage, where Latin America continued to suggest that the OAS Charter be updated to include "collective economic security" as a basic Hemisphere principle. On the other hand, the United States supports the goal of achieving regional "collective economic security" as the means to promote development. More than semantic distinctions are, of course, involved in the formulation of these two principles, as witnessed by the sharp confrontations that have taken place within other OAS forums since 1973, with Latin America tending to line up on one side and the United States on the other.

The OAS member states were generally interested in developing a better common understanding of the differences between regional and global approaches to development so that appropriate cooperative actions for regional development could be undertaken. In recent years there has been considerable discussion throughout the Hemisphere on the question of whether regional or global solutions are most appropriate to the dilemmas facing such areas as international financial assistance, energy use, trade, and natural resources development. This question was dealt with in different ways, first in 1969 in Latin America's Consensus of Viña del Mar and more recently in the reports of the largely United States sponsored Trilateral Commission.

Perhaps important segments of Latin American opinion, which are concerned with this debate, would concur with the recent views of the U.S. Assistant Secretary of State for Inter-American Affairs, Terence A. Todman. In testimony before the International Relations Committee of the U.S. House of Representatives shortly after the Grenada Assembly, Todman observed that "while it is clear that the development of the Caribbean is linked to global economic issues, it is essential that we not allow the complex conflicts and pressures of global problems to baffle us into paralysis. The Caribbean is important to us. It has real problems which can be alleviated by specific policies. Our task is to identify these policies and put them to work."

This reevaluation of regional approaches to Hemisphere development took on a different cast both during and immediately after Grenada. In the backdrop to the OAS gathering were the extremely limited results of the North-South Economic Conference, which ended in Paris early in June, an outcome that illustrated the limits to one-track globalist solutions to development dilemmas. And subsequently, Venezuela's President, Carlos Andrés Pérez, in his post-Grenada visit to the United States, pointed out that Latin Americans were partisans of multilateralism since they know from experience that bilateral understandings between larger and smaller American nations have always had precarious results and contributed many times to separating them from each other. Within this context Secretary Todman's strictures concerning the need for an improved regional approach to Caribbean development seem to have had some general relevance to broader questions of Hemisphere development.

These, then, appeared to be some of the significant elements in the OAS background before, during, and shortly after Grenada. To a critical degree, while the Grenada Assembly did not directly confront the central development challenges facing the American nations, these challenges remain on the Hemisphere agenda, no doubt to be dealt with in future meetings or in another manner. Nonetheless, the conference at Grenada did succeed in widening Hemisphere perception and understanding about the dimensions of the major development dilemmas that lie imme-

diately ahead. In the long run this may prove to be among the more significant outcomes of this first Foreign Ministers' meeting in the Eastern Caribbean region, an outcome that conceivably could with effective followup, improve prospects for transforming the current Hemisphere system so that it deals more effectively with the new development agenda before the Americas.

CAN LATIN AMERICA AND THE UNITED STATES MODERNIZE THEIR TRADITIONAL SPECIAL RELATIONSHIP?

(By Alejandro Orfila)

It is an honor for me to address this forum of Sister Cities International.

It is clear that your invitation represents a sign of your interest in the well-being of your fellow Americans in every part of this hemisphere as well as in the work of the Organization of American States. One of the important and invaluable elements of cultural life in our hemisphere is the continuing grassroot efforts to bring all nations and peoples of the Americas into closer contact with and understanding of each other. The goals and activities of Sister Cities International are a living testimony that this desire can result in tangible programs of mutual cultural inter-penetration.

You should be aware that the OAS has a strong interest in fostering greater private sector participation with Sister Cities in the Inter-American system of cooperation and development.

It was for this purpose that the OAS had a role in the establishment of the Pan American Development Foundation (PADF), which has a long tradition of service to the Americas.

Activities of the Pan American Development Foundation have a legacy of hemispheric goodwill. There are significant programs in which PADF (which I serve as chairman) and Sister Cities International can cooperate in support of common objectives, including:

Working with national development foundations in the Americas.

These now number over fourteen.

Cooperating through the PADF Material Resources Program which provides needed tools and equipment to vocational schools.

Assisting the Operación Niños Program which mobilizes assistance to the poor children in the Americas for specific projects.

Collaborating with the Inter-American Society, a new program designed to give vitality to individual understanding of the peoples, cultures and events of this hemisphere.

Our mutual cooperation is taking place at a most opportune moment. It is apparent that Latin America today is extending an open and optimistic hand to the United States. We see in this outreach a response to the new and vibrant interest being taken in the well-being of his hemispheric neighbors by President Jimmy Carter and his Administration.

"Interest" is the key word here: What Latin Americans appreciate more than rhetorical visions or grandiose plans from the United States is a clear and convincing demonstration of "interest." We saw this "interest" at work in such policies as the "Good Neighbor" attitudes of President Franklin D. Roosevelt and the Alliance for Progress of President John F. Kennedy.

These and similar U.S. policies were perhaps too ambitious in scope and, in consequence, their goals were not fully realized in practice. But they did possess the central element without which inter-American cooperation is bound to run aground on the shoals of mutual suspicion: that is, they were motivated first and foremost by a high degree of U.S. interest in the fortunes of the Western Hemisphere. And the Carter Administration is already demonstrating its awareness of Latin America.

We see this particularly in the issue of the future of the Panama Canal. A peaceful and durable resolution of this major issue remains a sine qua non for the future of peace and friendship among all the nations of the Americas. There is no doubt that Latin America views the recently negotiated agreements between Panama and the United States as the most important step towards insuring regional peace that our hemisphere has taken during this decade.

I believe that the bi-partisan U.S. approach to resolving this long-standing hemispheric dispute over the Canal, first by the Ford Administration and now by President Carter, speaks well for the value of our inter-American system. Ours is a region of the world which prefers to confront problems between the American nations not through violence and conflict but through mutual discussion tempered by hard bargaining.

These tentative agreements between the United States and Panama again demonstrate the important role which the Rio Treaty plays in establishing the framework for the relationship of our countries with each other. We should not overlook that the long negotiating process between the two nations had a basis in the OAS. On April 3, 1964 the representatives of both nations met to discuss their differences under the auspices of the OAS, acting provisionally as the Organ of Consultation called for under the Rio Treaty. A Joint Declaration by both governments, which was produced in the form of a resolution by this OAS Council, provided that they would ". . . begin immediately the necessary procedures with the objective of reaching a just and fair agreement which would be subject to the constitutional processes of each country."

The process of fulfilling these constitutional processes has now arrived. I am convinced that the Governments of Panama and the United States will do everything in their power to see that the hopes aroused everywhere by these negotiations will not be disappointed.

As I said earlier, the Carter Administration is demonstrating its awareness of Latin America. These first positive initiatives of the Carter Administration hopefully can be translated into long-lasting new policy departures or directions by the United States for the American region. At the present moment both Latin America and the United States are equally concerned with achieving progress on human rights, as indicated by the recent signing—on behalf of their governments—by President Carter and by Peru's Ambassador to the OAS, Luis A. Marchand, of the American Convention on Human Rights, as well as by Venezuela's ratification of this instrument. We are hopeful that other nations besides Colombia, Costa Rica and Venezuela will seek ratification of this 1969 Convention whose full acceptance within the American region would, I am convinced, mark a giant step forward in the cause of protecting human rights in our hemisphere.

There are other outstanding issues which remain before the hemisphere. These are chiefly development challenges—in areas like energy, trade, monetary policy and external financial assistance. And in the development field neither the broad shape nor basic content of the Carter Administration's response to Latin America's priority concerns is as yet evident. Encouraged by the interest already expressed, Latin America expectantly awaits the formulation of the new administration's policies with regard to development.

It is important to recognize that the traditional approach of peace associated with security is not enough to resolve the challenges at hand. What is required is common action on the new agenda confronting the hemisphere. This is the agenda of achieving integral human development for the millions of Americans who remain outside the mainstream of contemporary life and opportunity. It is this agenda which requires that we promote political, cultural, economic, social, scientific, educational and technical development across the board.

It would hardly be denied that throughout the post-war period Latin America has made strong economic and social progress. There has been a reasonable growth of production; economies and exports have been diversified, and non-traditional industries have appeared on the scene. The regional Gross National Product is now over $225 billion. These advances have coincided with growing complexities in the social structure and greater opportunities for industrial advancement.

But, as I have suggested on various occasions, this is only part of the picture. The more important part is evident from a comparison of the hemisphere's past with its future. Twenty-five years ago Latin America had the same population as the United States. Twenty-five years from now Latin America will have 600 million people—twice the number projected for the United States. In this situation, the crucial test for Latin American countries will be to provide millions of new jobs, increase food production, further reduce severe poverty, educate millions of citizens and modernize their societies.

Today Latin America is ranked among the middle-level of developing nations. Yet, to move beyond to become a fully developed region, Latin America must:

Find ways to better share the region's material resources, especially in such areas as energy, minerals, food, trade, and transportation, giving practical evidence that each nation is contributing much and must contribute more to the well-being of all;

Provide greater future opportunities for all the peoples of this hemisphere, not only developing human resources but also giving each person a stake in efforts to improve his community, nation and hemisphere; and

Seek to revamp the volume and types of external financial resources required from international sources to finance the export-promoted development of hemispheric economic systems and new forms of energy use, thereby responding to the financial assistance needs of Latin America.

These, of course, are broad objectives. I would add that they cannot be acted upon by the Organization of American States alone given its limited financial and technical resources. But the role of the Organization in helping its members work towards fulfilling these broad objectives is three-fold. On the one hand we cooperate with both our member States and other international agencies to develop activities and programs in which the OAS plays only a subsidiary if cooperative role. On the other hand our Organization serves as the hemispheric forum where priority responses to these development challenges can be thrashed out and established. Beyond these roles our Organization seeks to provide regional leadership in such a way that not only its own limited technical assistance resources but the vastly greater ones of major international financial institutions and larger countries can be concentrated on seeking solutions to particular development problems.

It would not be improper to point out that as a regional body, the OAS is generally more closely in touch with its member States priorities than the more distant global international agencies. This enables it to help other international bodies attune their policies and programs to the genuine needs of the Latin American countries.

We should underscore that a key aspect of the OAS is its ability to serve as the forum where the central divisive issues facing Latin

America and the United States can be debated and tested.

Our nations have learned from hard experience that the hemisphere grows strong as the OAS member states move away from abstract views of each other. This means that we must avoid ideological prescriptions or idealistic proposals and find concrete ways to work together for peace and justice. A century ago, the Argentine thinker Juan Bautista Alberdi said this hemisphere would prosper as it sought to produce an America that is "more practical than theoretical, more given to reflection than to enthusiasm." This distinguished political leader urged us to turn our attention "not so much to final goals as to the means for reaching them." I think this advice holds true today as it did more than 100 years ago.

I believe that Latin America's initial favorable response to the new regional overtures by the Carter Administration is a direct consequence of their practical nature and scope. The United States is not saying that it alone knows what is right for its neighbor's development. Nor is the Carter Administration seeking to arouse hemispheric hopes which cannot be seriously fulfilled.

It would be misleading, however, to suggest or imply that the current U.S. initiatives in the Americas as yet constitute a markedly new policy of cooperation on hemispheric development. What is hoped for is that the U.S. intends not to abrogate but to update and to modernize the traditional "special relationship" which has bound hemispheric nations in common purposes and for common actions of peace and friendship. This modernization of the special relationship will, among other things, require:

That the United States come to accept fully the historical desire and determination of the Latin American countries to regain control and management over their national wealth and their development strategies.

That the American nations determine which development problems and challenges can best be confronted within the OAS regional multilateral framework and take concrete cooperative steps toward resolving them.

That the OAS member countries concert their efforts on establishing or building up common regional programs in such areas as trade, energy, and financial assistance.

That the United States and Latin America work on improved trade relationships which strengthen the desire of Latin America to move from economic systems based on import substitution to economies based on the promotion of exports to a competitive world market.

That the rich natural resources and raw materials of Latin America be processed within the region itself, thereby giving greater stimulus to internal hemispheric development.

That the growing external debt of Latin America—which is concentrated in a few countries—be dealt with through U.S. support for export expansion and diversification and through measures designed to push forward the process of Latin American economic integration.

Our region already possesses practical mechanisms whereby cooperation for development can be encouraged and sustained. I would include among such instruments CECON, the Special Committee for Consultation and Negotiation, the OAS forum for Trade Relations; and, IANEC, the Inter-American Nuclear Energy Commission. While the Carter Administration has tended to neglect the CECON mechanism when it advances new trade measures—even though the United States originally suggested CECON's creation in 1970—it has begun to pay attention to IANEC as a resource for hemispheric discussion on critical energy questions. But until the United States provides broad indications that it is prepared to enter into serious discussions and negotiations on a range of hemispheric development questions, Latin America will remain unconvinced that the Carter Administration can produce lasting changes in U.S. policy for the American region.

We seem to be, then, at a critical crossroads in this hemisphere. There are no loud struggles, there are few clear signs to indicate where we are and where we should be going.

Yet, the priority development challenges are self-evident. They have been analyzed almost to the point of obscuring their nature and dimension. The time is at hand for Latin America and the United States to move in a cooperative manner from assessment to action on this regional development agenda. To fail to transcend the present impasse on cooperation for hemispheric development, to further neglect joint approaches to such overriding issues as export promotion, energy growth, job creation and the transfer of technology is to substitute rhetoric for policies designed to promote hemispheric justice and peace.

Neither the United States nor Latin America can—for the common good in the American hemisphere—permit drift and indecision to characterize their approach to regional development needs. They must find ways to modernize their traditional special relationships in an untraditional manner. Our nations possess the vision to do this. Whether they can also summon up the common will to do so will be the key to opening a greater regional era of friendship and harmony.

STEEL IMPORTS COST MARYLANDERS JOBS

Mr. MATHIAS. Mr. President, I am extremely concerned by a recent report issued by the Maryland Department of Economic and Community Development which shows severe slippage in the economy of Maryland. It has been estimated that since 1970 the loss of jobs in the manufacturing industries has exceeded 40,000. This is most troubling.

One of the problems confronting Maryland industrial concerns is steel imports. In 1976 alone, over 14 million tons of steel representing more than 14 percent of this country's steel consumption were imported. Those steel imports represent lost sales by Maryland steel concerns and lost jobs for Maryland steel workers.

In Maryland's specialty steel industry over the past few years, the already stiff competition has intensified markedly while prices have remained low. Since early 1975, the prices of stainless ingot have not risen as fast as costs. One of the largest specialty steel manufacturers in Maryland experienced a 50-percent reduction in employment between mid-1974 and the end of 1975, while incurring substantial dollar losses.

On June 14, 1976, relief was granted to the domestic specialty steel industry in the form of import quotas under section 203 of the Trade Act of 1974. This action was taken upon recommendations of the U.S. International Trade Commission and was to remain in effect for 3 years, with the provision that the quotas could be terminated given sufficient evidence of improved market conditions. Evidence to date does not reflect improved market conditions; in fact, the expectation of quotas induced a heavy influx of imports in the first half of 1976. As a result, imports in the first quota year exceeded the previous year's imports by 25,000 tons. Thus the first year of the 3-year test period saw an increase, not a decrease, of imports from foreign countries. Domestic specialty steel did show gains during the first half of 1977, but by the opening of the new quota year on June 14, 1977, these gains were curtailed.

The implemented 3-year quota period was a reduction from the original 5 years recommended by the U.S. International Trade Commission.

To assess the true effect of import quotas on the industry, the full 3-year period must be preserved. Premature termination of the quotas would wipe out any initial relief, and the industry could expect to be inundated by a wave of imports, coupled with more price pressure and resulting in a diminished share of the market.

There is some evidence that the employment situation in the Maryland specialty steel industry has improved due to the quotas and a rebounded market. This situation must be maintained if the domestic industry is to expand and provide more jobs in a healthy economy. A long-term national policy toward world steel trade must be developed. Meanwhile retention of impact quotas on specialty steel is essential to insure the industry's vitality and the preservation of jobs for our citizens.

THE FARM PROBLEM

Mr. BIDEN. Mr. President, even though the national forecasters are predicting a near record crop nationally, many people seem unaware that the farmer, in scattered regions around the country and, in many cases, the smaller farmer has suffered serious setbacks.

Record droughts and high summer temperatures caused severe damage to crop supplies during this past summer. The small amounts that could be salvaged brought only limited incomes to the farmers, because their grain was earning a very low price on the market.

These low grain prices reflect a 3-year trend—a steady and drastic drop in the price that the farmer has been able to receive for his crops.

In 1974, wheat, for example, was selling for better than $5 a bushel. Today, however, that same commodity brings only about $2.50 a bushel—less than half of what it sold for 3 years ago.

Like most issues today, the farm problem is a very complex one. The ever fluctuating laws of supply and demand, both in this country and abroad, impact heavily on domestic farm prices. Weather conditions, always unpredictable, influence dramatically farm supplies and prices. There is no simple explanation for the squeeze that the farmer is now experiencing. His costs of production have increased sharply in the last couple of years. Fertilizer, fuel, tractors, and other farm equipment are much more expensive than they were 2 short years ago.

Land values have skyrocketed. Despite these adverse conditions, the farmer is surviving, but just barely.

Although the public is generally aware of the farmer's plight, people seem to think that the higher prices which they are paying in the grocery store are the direct result in higher prices and, therefore, higher profits for the farmer. This is simply not the case. Since 1973, the average price for wheat and other grains has been dropping yearly. On the other hand, the market basket of produced U.S. foods, that mix of products that the American consumer purchases in the supermarkets, has sharply risen. Therefore, those individuals who have, in fact, gained more income from food products are the middlemen: The processor, the transporter, the grocer. They have not suffered from the wide fluctuation of prices for wheat and other commodities. Since 1973, their share of food dollars has gone up and up and up. Admittedly, the middlemen's costs have also gone up over these years. Nevertheless, the processor, transporter, and the supermarket firms have not suffered the relative dramatic decline in income that the farmer has. The middleman is, in my opinion, far more responsible for the higher cost of food than the farmer. I believe that the general public has not given this much consideration and as a result has placed a disproportionate amount of blame on the farmer for higher food prices.

These circumstances explain, in part, why Delaware farmers and farmers in other States have been speaking out so strongly for Government assistance. Especially in need of help is the family farmer who does not have a high amount of equity to cushion him from these bad times.

The farmers and the consumers are not and should not be on opposite sides of this issue. Both are caught in the squeeze of rising costs. Both have suffered from the increases in costs related to energy, labor, the general inflation that has pushed prices higher and higher.

If we are to achieve a stabilization in prices, groups like the farmers and the consumers, who share similar goals, should not be at odds with one another. Rather, they should join in an effort to make sure that no one group exploits this inflationary spiral. The fight should be joined to keep energy costs down, and to stabilize the dollar so that wheat and other grain can be sold competitively abroad. These are some of the real issues that can help the farmer achieve a fair price for his product.

FREE WATERWAYS: HOW THEY BREED INEFFICIENCY

Mr. DOMENICI. Mr. President, my colleagues have heard a lot of talk about how waterway user charges will "increase" costs. This is wrong for two very simple reasons. First, it will lessen the tax load to support subsidized waterways, and thus any need for subsidies to other modes.

Second, and as significantly, it will encourage greater efficiency in existing transportation, thus lowering costs to the economy as a whole.

Such an assertion may be easier to understand if we examine an analogy of two parallel highways (two parallel transportation routes). Let us assume that one highway is provided "free" by the Federal Government, while the other is privately owned, and thus must charge a toll just to cover capital and maintenance costs.

Of course, the driver of a car does not care about the financing; he is interested in taking the route that is "cheaper" at the moment he is traveling. Thus the artificially "free," Government-provided road gets the concentration of traffic.

So traffic increases on the "free" road with the toll road getting less and less business. In fact, the toll road owners are so strapped for cash that they cannot even obtain enough toll revenues to fill in the potholes. So the toll road begins to deteriorate, encouraging even more traffic to move on to the "free" road.

This added traffic, however, creates some congestion on the "free" road, so users begin to demand new, extra lanes. Once these new lanes are built, the toll road, of course, becomes even more uneconomic and unattractive to motorists.

Assuming it is a worthy goal, can the private road be saved? And how can we hold down the continuing expansion and demand for costly new "free" lanes on the federally built road?

One alternative would be to give a big cash grant to the private toll road owner so he can remove the tolls and fix up his road, attracting back those drivers who find it more convenient. But chances are that means payments every year to the toll-road owner. And the taxpayer would have to pay twice: Once for the "free" Federal road, once for the grant to the private road.

The alternative way to encourage a better balance between the two roads is to put a toll on the "free" road so it recovers some of its costs to the taxpayers. This would tend to balance out traffic, so the basic investment in the private toll road is not wasted. It would have the added benefit of assuring only that those who use the highway—not the general taxpayer—pay for the highways. And it will, to a degree, encourage drivers to make certain that both owners build only what is necessary; the users simply will not tolerate any waste they must pay for directly.

In simple terms, this is precisely the issue we confront on waterway user charges. We must confront whether we want to subsidize everything, or try to allow those who use the system to pay for it.

This was well expressed recently in an assessment by Dudley E. Pegrun, an economic professor at the University of California, Los Angeles:

> The levying of charges on the commercial users of our national waterway facilities will not increase the freight costs of the country, will not increase the freight costs to the consumer, and will not add to inflationary pressures. On the contrary, the result will be precisely the reverse. Total freight bills will be less because of: a more efficient allocation of economic resources to transportation; a more efficient allocation of freight traffic among the modes; a reduction in the total costs of the infrastructure of freight transport facilities; a reduction in the federal tax burden on taxpayers; and a reduction in total federal spending with a consequent reduction in the pressure on inflation.

TOM AND MARY PAT EHRHARD

Mr. ANDERSON. Mr. President, I would like to bring my colleagues' attention to a unique situation enjoyed by one of my constituent families.

Paul and Jeri Ehrhard, of Albert Lea, Minn., are the proud parents of two students at the Air Force Academy in Colorado Springs, Colo. In fact, their children, Tom and Mary Pat Ehrhard, are probably the only brother and sister attending the same service academy simultaneously.

Tom Ehrhard, a third classman at the Academy, will graduate in June 1980. His high academic average earned him a place on the dean's list; his military excellence earned him recognition on the commandant's list. Tom's outstanding achievement in both these areas makes him one of the few students to appear on the superintendent's list.

Mary Pat Ehrhard, No. 3 in her 600-student graduating class in Albert Lea, entered the Air Force Academy in June 1977. She decided definitely to attend the Academy after visiting her brother there. According to her parents, Mary Pat did very well in basic training and even managed to enjoy it.

Both Tom and Mary Pat are active in sports at the Academy. Tom is a member of the varsity wrestling team; Mary Pat is a member of the cross-country team. They consider each other's presence a big morale booster although admit that they do not see much of each other because of their busy schedules.

Mr. President, I am proud of these fine young Minnesotans and of the devotion they demonstrate daily to their country.

THE GRAYING OF THE NATIONS

Mr. CHURCH. Mr. President, the Committee on Aging will conduct a roundtable discussion of "The Graying of Nations: Implications" at 9 a.m. on November 10, 1977, in room 4221, Dirksen Senate Office Building. Participants from at least eight other nations are expected. They are in the United States for discussions with the National Institute on Aging, the World Health Organization, and the Fogarty International Center; and they have agreed to share their research findings and other expertise with the committee.

HEW—HUMPHREY ENNOBLES WASHINGTON

Mr. DOLE. Mr. President, I am pleased to join in inserting the transcript of the HUBERT H. HUMPHREY building ceremony in the RECORD.

It has been particularly rewarding to see the bill I introduced, S. 2169, progress to fruition in this great and lasting tribute to my friend, Senator HUBERT H. HUMPHREY.

During the ceremony on Tuesday of this week, several thoughts came to mind.

I recalled that the poet, Robert Browning, wrote:

A man's reach should exceed his grasp, or what's a heaven for?

We all hope to live that way, though few of us do it very consistently or with very much effect.

HUBERT HUMPHREY does, though. He lives that way not only to validate heaven but to show what life is for.

As a result, his grasp has exceeded even his own wildest dreams. We all know he wanted to be President once. He would have been a good one. But it was never a consuming passion for him. His consuming passion has been to make America a little better, to make the world a little better, to make life itself a little better—and reaching out for those goals, he overshot this Nation's highest office and became instead one of the great world leaders—one of the major moral forces of our time or of any time.

The letters H-E-W identify an agency of government but they represent more than that. They represent the ongoing fulfillment of a national promise implicit in the very meaning of America. And HUBERT HUMPHREY has been diligent—sometimes even obstreperous—in holding America to her promises.

The words chiseled into the new HEW building will identify HUBERT HUMPHREY with its purposes. But already the letters H-E-W have a meaning larger than this, not chiseled into marble but engraved in our hearts and written in the history of this great Capital City and all it represents—HEW, HUMPHREY ennobles Washington.

Mr. RANDOLPH. Mr. President, last Tuesday afternoon official Washington paused to express a richly deserved tribute to a wonderful human being and a truly great American.

The occasion was the dedication, in a ceremony just a few blocks from this Chamber, of the HUBERT H. HUMPHREY Building.

It was an event which I am sure all of us who had the privilege of being there will always remember with a sense of warmth and joy because it gave us a chance to demonstrate the esteem, the respect and indeed the love we have for a treasured colleague.

Even before the ceremony there was evidence of that in the way it was made possible.

It was my personal privilege to report the authorization bill (S. 2169) on October 10, just a week after it was introduced, and to become one of the first of its 99 cosponsors.

The fact that the measure passed the Senate and House within a space of 3 days thereafter indicates the importance that each of us attached to it. In so doing we were also reflecting the sentiment of a grateful Nation to which HUBERT HUMPHREY has given so much for so long.

It is especially fitting, I think, that he gives his name to the home of the Department of Health, Education, and Welfare, because it is to its purposes that he has in so many ways devoted his talents, his energy and his compassion. The lives of millions of Americans—the old, the young, the disadvantaged of all races and creeds are better today because this man we so fondly call "the Happy Warrior" never hesitated to take the lead in battles for social and economic justice, even when those were unpopular causes.

The basic facts of HUBERT HUMPHREY'S career are imposing enough—the three decades of service from mayor of Minneapolis to Senator, Vice President and nominee for President. But his greatest stature is as a great humanitarian and public servant, a man of indomitable courage and unconquerable spirit.

Wherever he went, and whenever he spoke, we knew full well that the champion of the people was abroad in the land.

It is for those attributes that we honor him and for which the HUBERT H. HUMPHREY Building will stand.

So that the thoughts and words of the dedication of that building will not be lost, I am pleased to join with Senator DOLE in asking unanimous consent that the remarks of Secretary Joseph Califano Jr., Vice President MONDALE and Senator HUMPHREY be printed in the RECORD.

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

DEDICATION OF THE HUBERT H. HUMPHREY HEW BUILDING—NOVEMBER 1, 1977

SPEECH BY JOSEPH CALIFANO, JR.

Now and then in America someone comes along whose life and career remind us not just how good he is, but of how good we can be.

For our generation and for me personally, because I have been privileged to know Senator Humphrey for so long and so intimately, Hubert Humphrey is that person. He has earned our respect and won our love. Not simply for what he has done but for what he has been, and for all that he has summon us to be.

Today we honor him in an especially fitting way. Today, the Department of the people pays tribute to the man of the people. From this day forward this building which for millions of Americans is the headquarters of health and hope will bear the name of the man who symbolizes this government's capacity to offer help and hope.

In this building we administer programs that touch the lives of the most vulnerable in America. Programs to feed the hungry, to help the poor, to care for the sick, to rehabilitate the handicapped, to teach the young, to enrich the life for the old and to end discrimination.

How appropriate that our efforts shall be carried on under the name of the man who fathered so many of these programs. It is Hubert Humphrey who proposed in 1949 a national program of medical care for the aged under the Social Security System, legislation that 16 years later became Medicare.

It is Hubert Humphrey who before almost anyone else fought for legislation forbidding discrimination against the blacks, the ethnics, the aged and the handicapped. It is Hubert Humphrey who guided to passage hopeful programs like Headstart. Dozens of programs from wider Social Security coverage, to federal scholarships to Biomedical Research, owe their present strength and their existence to Hubert Humphrey's leadership as architect, sponsor and advocate.

And dozens more that do not yet exist like National Health Insurance, will exist because of the early vision and leadership of Hubert Humphrey.

For Hubert Humphrey is not only a leader in America, he is a prophet. A prophet lifting our lives continually from what we have achieved to what we must achieve. From the road behind us to the road ahead.

Today, Senator Humphrey, we do not honor you so much as you honor us by lending your name, your inspiration and your example to the work we do here.

There are some words, Senator, of the Jesuit philosopher Teilhard de Chardin that capture well the energy and the joy that enrich your life.

Teilhard wrote:

"Someday after mastering the winds, the waves, the tides and gravity we shall harness for God the energies of love, and then for the second time in the history of the world man will have discovered fire."

It is your achievement, Senator, to harness in a remarkable career those energies of love to generate warmth and light for millions of your countrymen. It means a great deal for all of us and I can't tell you how much it means to me personally to be Secretary at this moment. It gives me a great deal of pleasure to call upon someone else who is a special friend of this department and a man I have admired for many years and a special friend of mine, your colleague and protege from Minnesota, a man in whose own achievements, your spirit, the spirit and example of Hubert Humphrey can be seen, your friend and successor in two high national offices, the Vice President of the United States.

SPEECH BY WALTER MONDALE

There are two reasons why Hubert is what he is today.

One, Hubert; but secondly, and equally important, his magnificent and beloved wife, Muriel. And I would like her to stand.

Some very unusual and unprecedented events have occurred in Washington recently, which I think have broken historic precedent. The other day a United States Senator recuperating from illness, was personally picked up at his home by the President of the United States and returned to the nation's capital. He went back to the U.S. Senate where he spent so many years of his life, and the Senate and the Gallery welcomed him with a rising applause that extended for well over ten minutes, expressing an enthusiasm and a love beyond anything that any of us have ever witnessed. And then there was passed, a bill with 99 co-sponsors unanimously by voice vote in both the House and Senate, for one of the few times in American history, naming a major departmental building after a living public official in this country.

Each of these events was historic and unprecedented and said the same thing and that is that Hubert H. Humphrey is the most loved and respected man in America today.

That is something that those of us from Minnesota knew would be the case long before the rest of the nation. He has touched all of us from Minnesota differently. But I'll never forget the change he made in my life. It has not been widely noted in American history but when Hubert was elected Mayor of Minneapolis and I became inspired by his example, I was inspecting Pea Lice in the pea fields of southern Minnesota. And I'm most grateful to you Hubert, for redirecting my career.

Joe Califano, in a brilliant and moving statement recounted a few of the many fundamental and humane reforms that have stemmed from Hubert's leadership. And they are all well known. His leadership above all has been symbolized by his ability to see problems in human terms.

He once said that he learned more economics in one South Dakota dust storm than in 7 years at the University of Minnesota. He is able to see beyond statistics and charts to

the suffering and the needs and the human hope beyond them. He is able to look at the sick and see the need for Medicare. He is able to look at inequality and see the need for a Civil Rights Act. He is able to look at young and spirited and idealistic youth and sponsor the Peace Corps. He is able to look into the eyes of the broken spirit of unemployed Americans and sponsor the Humphrey-Hawkins Bill. He is able to see the gap between the rich and the poor and fight for the Food For Peace Bill. He is able to see the dangers and the horror of nuclear weapons and sponsor the Arms Control and Disarmament Agency Act.

Throughout his career problems were for the purpose of being solved. John Gardner, who once headed this agency said that where human institutions are concerned love without criticism brings stagnation. But criticism without love brings destruction. Too often we have had the kind of approach which either brings stagnation or destruction.

But Hubert Humphrey has been instead a loving critic throughout his entire public career. He has loved this country so much he has been able to see its failings and he has bothered to work and to lead toward their reform and toward their solution.

It was inevitable that one of the major buildings in this town would be named after Hubert Humphrey, but it is as fitting as anything could possibly be that the building that was selected was that serving the cause of health, education, and welfare in this nation.

In this department there has always been a voice of compassion and concern for all those who need government the most. The aged and the sick, children who need a decent education, disadvantaged families, struggling against difficult odds to build a better life. And this is the department whose programs are filled with love. And for that reason I am deeply honored, indeed thrilled, to join with all of you today as we dedicate this building in the name of our beloved Hubert. Thank you very much.

SPEECH BY HUBERT H. HUMPHREY

Thank you very, very much, my good friend Mr. Vice President. It's hard for me to address this wonderful colleague and friend of mine in such formal terms. But I'm so proud of him, he's brought new distinction and meaning to the office of the Vice Presidency. I think we ought to let him know it.

And Secretary Califano, indeed we have worked together many years and I am so proud and pleased that you are Secretary of this Department that is dedicated to the health and education and the well-being of the American people. To help fulfill the charge of the Declaration of Independence of life, liberty and the pursuit of happiness. And, Joe, you've got a tremendous task, you have not only our cooperation, and we shall appeal for that, but you shall constantly have our good wishes.

I want to thank Mr. Solomon and indeed our Chaplain of the Senate, Reverend Elson, who gives us such spiritual guidance, and all of my distinguished colleagues many of whom are here today. I think we come closer than we have for a long time to having a quorum of the Senate here today.

To those of my staff who are here, I'm pleased that you have taken this time off, but may I suggest that you hurry back to your desk as soon as we're through.

I see a couple of friends here that I would like to single out.

First of all, a gentleman whom I have worked with for years who represents in this country the great forces of organized labor that have done so much not only for the organized worker but for people in general. A fighter who never gives up. Young of heart, I would not even ask him what his chronological age is because it's an irrelevant fact, George Meany.

And I see Arthur Fleming out there. I pay special tribute to Arthur because when I lost my job as Vice President due to the will of the electorate and the terms of the Constitution, I was on the unemployed list and I went as a supplicant and this good and kind man who was then President of Macalester College said: "We take in the poor, the oppressed, and those that are needy." And he gave me a job. And Arthur, we thank you very much.

And, of course, my colleagues in the Senate have been acknowledged, the Speaker, the President Pro Tem and others. And I hope you realize that everything that has been said here today about Hubert Humphrey is indeed a reflection of their work. No one does anything alone, except get in trouble.

Now when my colleagues in Congress passed a bill to name this important federal building for me I warned them, I promised them, that this gesture left me speechless. You can imagine their response to that.

But I still say that words are inadequate to express my personal delight and gratitude. It is a significant honor. I do, however, want to say a special word of thanks to those who were the principal sponsors, especially my friend Bob Dole, who sparked this whole occasion. It's not often in this town that a Kansas Republican takes the lead in honoring a Minnesota Democrat. It just goes to prove what I've been trying to say: "If we work at it, we can get together."

And then Jennings Randolph of West Virginia, whom I've known for well over 30 years, as a dear and personal friend.

And Al Quie, another Republican from southern Minnesota but a dear friend of mine and there's Ray Roberts and the whole Minnesota delegation and all of you in Congress.

And Wendy Anderson, I want to thank you, too. I'm very proud of Wendy, very proud of all our Congressional delegation.

I'll not seek to respond to the kind and extravagant tributes that have warmed my heart today—there are just too many—except to say that few men enjoy a comparable privilege of being so lavishly praised while they can still enjoy it. And that is a unique experience.

From my father I have absorbed a respect for history. So I try to step back occasionally to view events in the larger perspective of the history that moves around us, shapes our lives, develops our challenges, and carries our imprint and impact.

It makes me doubly conscious of the rare and singular honor it is to have a formal niche in this grand living pageant of America, reserved in my name.

To know that the principles of social and economic justice, compassion, hope, and opportunity that have inspired me will continue to thrive and flourish in a building bearing my name is a great gift indeed.

I have to rest for a minute. Fritz asked how long I was going to talk. I said, "Why ask a foolish question like that?" But I want to tell you something, he left out a couple of good quotes. I was peeking at his notes, he had a wonderful one from Emerson which I thought would have really enriched the whole occasion. But he said he would save it for another time. He figured they might want to dedicate a tennis court or something.

By the way, he always expresses his gratitude for these occasions because he says he gets so much television coverage. I'd like to just say, remember I'm the principal character.

I do also want to say very quickly, that the struggle we've been going through these months, has been a special challenge but it's really one that we're beginning to win. I never could have done it, I never could have kept up my spirit, without my Muriel. And I'm everlastingly grateful to her; she has put up with me for 41 years of married life.

I want my sister Frances, here, who fills in for me so many times and is so often forgotten by her brother, in his busy life, to know how much I love her and how grateful I am.

Oh, yes, I said I was going to digress a little bit more. I think you ought to know that until recently the only thing that was ever named after me was a grandson, an old folks home in Wadena, Minnesota, a bridge down at Cape Kennedy and a one-mile road in Colorado. That was the full extent of the honors that came to me in terms of having things named after you. But my cup runneth over, and I love the harvest. I want you to know that.

I'm certain that the tributes of friendship that have buoyed my spirits, and they do, concern more than just Hubert Humphrey and make irrelevant the limitations of which I am only too much aware. There is no shortage of heroes in this country. Among any group of average Americans are tales of heroism and devotion enough to glorify the Lord and to vindicate his world, and his works. I am but one of the laborers in the Lord's vineyard.

Apparently, people do not identify only with winners, they also identify, and with what warmth and enthusiasm, with folks who lose a round or two, but who fight on against the odds. There's a great deal of difference between failure and defeat. Failure means giving up, you're through. Defeat means you wait for another chance to come back, to fight the good battle. So I want to make it clear that while some people have said to me you're a good loser, Hubert, I'm really not, I don't like to lose at all. I know that I personally have been what you call a "good loser" only because I've always been determined to return for another fight, for another round of action.

I once said of Adlai Stevenson, that in defeat for the Presidency he brought more honor and decency and, really, nobility to the American political process than the victors. He was a truly remarkable spirit.

So as I see it, this outpouring of affection, which I know is genuine, and I return it with principal and interest, has a symbolic dimension. It is but an affirmation of values and hopes that I share with millions of Americans that sustain and motivate each of us to do his best; that give vigor and moral direction to our representative institutions. As you have heard me say many times, I'm an optimist about this country. There is a vitality, there is a resilience, there is a spirit in the American people that will not be put down, that will not be denied.

Public service has confirmed my faith in the potential of the human spirit, its generosity, its idealism, its capacity for growth, its resilience and its infinite resources.

So it is gratifying, oh, it's more than that, I don't even know the right word, it's exciting to know that this building which bears my name will provide facilities for public servants dedicated to the enriching task of advancing the health, the education and the welfare of their fellow Americans, many of whom are least able to help themselves. It was once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy and the handicapped.

And ladies and gentlemen, let America judge itself on those standards, not on the stock market alone; not only on our Gross National Product, important as that is; not only on our material wealth, but rather on those great idealistic and spiritual values which sustain a nation and which brought this nation into being.

America is different. The immortal documents that we read—the Declaration of Independence, the Constitution of the United States, the Emancipation Proclamation, the Gettysburg Address—just to name a few, remind us that America is different. America represents the merger of spirit and material things. The merger of soul and heart and flesh and body. And I think that we ought to be very proud that we brought that experiment thus far in human history.

Now, under this roof, and inspired by the leadership of a President and a Vice President who are blessed with vision and compassion, and mobilized by a dynamic Secretary, Mr. Califano, new and better efforts to promote human welfare and human development will be developed and administered. All of them will move us closer to our goal of insuring to every child the opportunity to grow and develop to his or her fullest potential, to every adult, a life of industry and dignity; and to every older American, a twilight of serenity and independence. This is what this little celebration is all about. It shouldn't be about a man. It should be about our commitment. And you're here because you believe in this commitment of an America that is just and compassionate and decent, because you believe that people who want to work should have a chance to work. You believe that people ought to have the chance for the pursuit of happiness. And to pursue that happiness in the blessings of liberty so that life can be meaningful.

Thank you very much.

THE ALCAN ROUTE

Mr. HART. Mr. President, I voted in favor of Senate Joint Resolution 82, approving the President's choice of the Alcan route to transport Alaskan natural gas to the lower 48 States. I voted in favor of the resolution not because I think all the troublesome questions are solved, but because I agree that the Alcan project is superior to the El Paso or the Arctic routes. I do not think that we should spend any more public or private funds to discuss the relative merits of the three potential routes.

The vote on this issue allowed only a yes or a no to the President's decision. There is much more to the decision yet to be determined. A great deal more work needs to be done to answer some fundamental questions which have been raised recently. The first question pertains to a potential reduction in oil production from Prudhoe Bay, if large amounts of gas are taken without water injection. The second question deals with the financing of the pipeline. It has not been demonstrated that this entire project can be funded without Federal support.

Before the decision is made to commit construction funds to this project, these and other questions raised by the Senator from New Hampshire (Mr. DURKIN) and in the Energy Committee's report should be satisfactorily resolved. My vote in favor of the Alcan route should be interpreted as a go-ahead to try to solve the remaining problems associated with the Alcan project.

DEAUTHORIZATION OF DELMARVA INTRACOASTAL WATERWAY

Mr. MATHIAS. Mr. President, I am pleased to join the distinguished Senator from Virginia (Mr. SCOTT) as a cosponsor of S. 2205. This bill would deauthorize the proposed Army Corps of Engineering dredging of a 100-foot-wide and 6-foot-deep water channel between Lewes, Del., and Cape Charles, Va.

The States of Maryland, Virginia, and Delaware have each withdrawn their support for this proposed Intracoastal Waterway project because of the high costs in both monetary and environmental terms and the limited benefits that would result. I ask unanimous consent that the joint statement of the Governors of Maryland, Delaware, and Virginia requesting this deauthorization appear in the RECORD at this point.

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

JOINT STATEMENT OF THE GOVERNORS OF DELAWARE, MARYLAND AND VIRGINIA REQUESTING DEAUTHORIZATION OF THE DELAWARE BAY-CHESAPEAKE BAY INTRA-COASTAL WATERWAY

Whereas, the development and operation of a continuous inland waterway, from Roosevelt Inlet in Delaware Bay, Delaware, to Cape Charles (Fisherman Inlet) in Chesapeake Bay, Virginia were authorized by Congress in 1970, and;

Whereas, the U.S. Army Corps of Engineers has completed economic and environmental evaluations of the Delaware Bay-Chesapeake Bay Waterway in Delaware, Maryland, and Virginia (Delmarva Intra-Coastal Waterway) and;

Whereas, after careful analysis of the potential costs and benefits, each State has withdrawn its support from this project because of its potential adverse impacts on the natural environment and because of the economic burden it would impose on the States and;

Whereas, there are no foreseeable circumstances which could change the conditions on which the withdrawal of support was based;

Therefore, we, the undersigned Governors of Delaware, Maryland, and Virginia respectfully request Congressional Delegations of our States to initiate and support the necessary legislative actions to fully deauthorize the U.S. Army Corps of Engineers project to construct the Delaware Bay-Chesapeake Bay Waterway in Delaware, Maryland, and Virginia (Delmarva Intra-Coastal Waterway).

Acting Gov. BLAIR LEE, III.
August 24, 1977.

Gov. PIERRE S. DU PONT.
September 1, 1977.

Gov. MILLS E. GODWIN, Jr.
September 12, 1977.

Mr. MATHIAS. Mr. President, an Intracoastal Waterway presently exists linking Virginia, Maryland, and Delaware. It consists of Cheaspeake Bay, the Chesapeake and Delaware Canal, and Delaware Bay. The channel is maintained by the Army Corps of Engineers throughout those bodies of water. Thus, small pleasure craft as well as larger waterway shippers have a protected north-south route on inland waterways.

There would be benefits which could accrue to the local economies of the Delmarva Peninsula from the construction of a new Intracoastal Waterway. Most prominent among these would be increased tourism, recreational boating, marina development, new residential and second home developments, and related commercial goods and retail services.

However, as the Maryland Department of Natural Resources and Maryland Department of State Planning note:

. . . usage of the proposed project by transient boaters would result in a transfer of boaters from the present intracoastal waterway route through the C&D canal and Chesapeake Bay. Such a transfer would result in a loss of business to Chesapeake Bay marinas and communities which would not be fully compensated in the Ocean-bay area and thus would result in a net cost to the State of Maryland rather than a benefit as indicated by the Corps of Engineers calculations.

The social and environmental costs to the people of Maryland, Delaware, and Virginia would be excessive. On balance, then, I have concluded that this project should be deauthorized as the Governors of the three States affected have requested.

Let me describe several adverse factors which weigh heavily against the proposed dredging operation. The fragile environment of eel grass, callop, oyster, clam and other shellfish beds may be permanently disrupted. The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration made this telling comment on the proposed waterway:

Spoil deposition will destroy an estimated 35 acres of seagrass beds 13 acres of shellfish beds, 278 acres of tidal marsh, and more than 1,600 acres of tidal mudflat. It is questionable, therefore, to conclude that spoil deposition at the 76 selected sites will result in minimal adverse environmental impact. . . .

In addition to the direct loss of 13 acres of shellfish and 35 acres of eelgrass beds from dredging and spoil disposal, an indeterminate amount of both resources will be lost indirectly through excessive turbidity and sedimentation. Since both shellfish and eelgrass are currently stressed communities, additional stress to either resource may be highly significant.

In 1970, the estimated construction cost of the Delmarva waterway was $6.8 million excluding the costs of bridge replacements and yearly dredging and maintenance of the waterway. Today that cost estimate has risen to approximately $21.7 million, an increase of 300 percent in 7 years. The estimated cost of dredging the waterway is placed by the Corps of Engineers at $1.9 million. The average annual maintenance cost and redredging is estimated at roughly $1 million per year for the 50-year life of the waterway. The costs of dredging and maintenance would be shared by the Corps of Engineers and the three States involved. The cost of marsh replanting and annual maintenance estimated by the Corps at $281,000 per year would be borne solely by the three States. In addition, the growth of marinas, repair facilities, food, lodging, and related development will require a new high span bridge between the mainland and Ocean City, Md., estimated to cost the State of Maryland $20 million.

In these days of energy conservation, environmental protection and general fiscal responsibility, the Nation should not be spending money on an additional luxury such as the Delmarva Intracoastal Waterway. And, it is important to note, the Chesapeake and Delaware Canal will continue to serve as a continuous navi-

gable channel between Delaware Bay and Chesapeake Bay if this proposed waterway is not constructed.

Russel Peterson, former Chairman of the Council on Environmental Quality, described the dilemma a project such as this one poses for policymakers. I quote Mr. Peterson.

Water development projects can create needs as well as satisfy them, and the Nation is at a point now where planners must distinguish between requirement and demand and consider further development in the context of environmental management.

I ask unanimous consent that the Maryland A–95 clearinghouse review of this project, a letter from the Governor of Maryland, two letters from the Army Corps of Engineers, a press release from the Corps of Engineers, and an editorial which appeared in the Salisbury Daily Times be printed at this point in the RECORD.

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

DELMARVA INTRACOASTAL WATERWAY

EXECUTIVE SUMMARY OF A–95 CLEARINGHOUSE REVIEW

1. Estimated benefits of the Delmarva Waterway to the State of Maryland are based upon questionable assumptions which result in the prediction of far greater benefits to the State than can be logically expected. For example:

Approximately 55% of the benefits calculated for the Maryland portion of the project are attributed to a three day increase in the use of recreational boating in the area resulting from the project. The value of the increase is calculated by the Corps from the capital cost of the boats used, so that the benefits associated with the increased use of a $20,000 boat is worth ten times as much as that of a $2,000 boat.

Whereas, by using predictions calculated on the variable cost of operating the boats, for the additional three day period a more appropriate measure of public benefits attributable to the waterway would be identified.

2. An additional 42% of the benefits calculated for the Maryland portion of the project are attributed to reduced costs to the transient fleet caused by a reduction in travel time through Maryland waters. However, usage of the proposed project by transient boaters would result in a transfer of boaters from the present intracoastal waterway route through the C&D canal and Chespeake Bay. Such a transfer would result in a loss of business to Chesapeake Bay marinas and communities which would not be fully compensated in the Ocean-bay area and thus would result in a net cost to the State of Maryland rather than a benefit as indicated by the Corps of Engineers calculations.

3. The Corps of Engineers has failed to include several cost factors related to the construction, maintenance and use of the project. Inclusion of these factors would significantly increase the total cost of the project to federal, state and local governmental agencies. For example:

a. Much of the proposed waterway construction in Maryland would require the redredging of previously authorized channels to the proposed authorized depth of six (6) feet. The cost of this required redredging (estimated by the Corps to cost $1,900,000 for the entire waterway) is not taken into account in calculating the average annual cost of the project. In addition, previous maintenance dredging experience in Maryland's portion of the proposed waterway indicates that the Corps' estimated five year maintenance dredging schedule will not be adequate. An annual maintenance schedule is more likely. Furthermore, no costs are allocated for emergency maintence dredging of the water due to closure from overwash caused by major storms. Historical records indicate that such events will occur several times during the proposed fifty year maintenance period and will completely obstruct the waterway.

b. The Corps of Engineers assumes that construction of the proposed waterway will increase boating traffic, yet the economic and environmental costs of onshore commercial development and additional recreational and safety facilities associated with such increased traffic (e.g., access channels, navigational aids, increased marine police service, marinas, dockings, and launching facilities, toilets, stores, restaurants, etc.), are not considered. In addition, it is likely that the conflict between increased boat traffic and car traffic at the U.S. Route 50 drawbridge into Ocean City would require the construction of a new high span bridge at that site. The estimated construction cost for such a bridge—over $20,000,000—was not included in the Corps' assessment of costs.

c. Totally lacking in the Corps' cost/benefit analysis are the significant costs of environmental degradation that will result from the construction, maintenance and use of the proposed waterway. The Draft Environmental Impact Statement cites the direct loss of shellfish beds, agricultural land and seagrass beds (which are potential commercial "scallop beds") caused by the dredging and dredged material placement activities. It also cites the probable closure of shellfish areas due to fecal coliform contamination resulting from increased marina use. However, no costs are attributed to either of these losses in the cost/benefit analysis. Furthermore, numerous scientists familiar with the Delmarva coastal area have suggested that the adverse environmental effects of the construction, maintenance, and use of the proposed waterway will be far greater in extent and duration than indicated in the Draft Environmental Impact Statement.

Thus, the proposed project would result in considerably more economic and environmental cost to the State of Maryland than predicted by the Corps of Engineers with little offsetting benefit. Based upon this cost/benefit imbalance for Maryland, the recommendation must be to oppose construction of this project.

EXECUTIVE DEPARTMENT,
Annapolis, Md., March 16, 1977.

Hon. CHARLES MCC. MATHIAS, Jr.
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MATHIAS: The Maryland Board of Public Works at its meeting on February 16, 1977, authorized me to seek the assistance of your good offices in deauthorizing the U.S. Army Corps of Engineers' project to dredge an intracoastal waterway along the Atlantic Coast of Delaware, Maryland and Virginia. This project was authorized by Congress on December 17, 1970 by the House of Representatives' Committee on Public Works. Project approval was in accordance with House Document 91–400 and pursuant to Section 201 of P.L. 89–298, the Flood Control Act of 1965.

Acting on behalf of the State, the Board of Public Works has withdrawn support for this project based on the advice of Secretary of State Planning Wahbe and Secretary of Natural Resources Coulter. A comprehensive review done by the Departments of State Planning and Natural Resources indicated that State support of the intracoastal waterway would not be in the best interest of Maryland because of its potential impacts to our natural environment and because of the economic burden it would impose on the State budget.

I understand that Congressional action is required to deauthorize this project prior to its automatic deauthorization after eight years (1984). If you have any questions or if you need further information, please do not hesitate to contact me.

Sincerely,

GOVERNOR.

DEPARTMENT OF THE ARMY,
Philadelphia, Pa., May 5, 1976.

Hon. CHARLES MCC. MATHIAS, Jr.
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is in response to your 5 April 1976 letter in which you requested an up-to-date status report on the DelMarVa Intracoastal Waterway Project.

Subsequent to my 2 April 1976 letter to you, a major development has occurred. The States of Delaware and Maryland have withdrawn their support of the project. This is significant because the project would have been funded on a cost sharing basis between the Federal Government and the States. This withdrawal of state support means the project cannot be built in Delaware and Maryland since the States' share of the costs will not be forthcoming.

Official correspondence from the Commonwealth of Virginia to date generally indicates that Virginia has not taken a position unfavorable toward the project. However, the Commonwealth wants to keep their options open in the event their further assessment of the economics and environmental impacts proves to be unsupportive of the project.

All that remains to complete our reevaluation effort is to prepare a report summarizing the decisions of the States and making any appropriate recommendations pertaining to future design efforts for the Virginia portion of the project if Virginia supports the project. At present a public meeting in Virginia to discuss the project with the people will be required. However, if Virginia withdraws its support of the project, we can terminate the entire study and complete our report without a public meeting.

I hope the information that has been provided will be helpful to you. Should you like to discuss the issue further, please do not hesitate to contact me.

Sincerely yours,

HARRY V. DUTCHYSHYN,
Colonel, Corps of Engineers,
District Engineer.

DEPARTMENT OF THE ARMY,
Washington, D.C., August 25, 1976.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: This is to advise you that we have placed the project to provide a waterway along the Atlantic Coast from Roosevelt Inlet, Delaware, to Cape Charles, Virginia, (DelMarVa Waterway) into the "inactive" category.

The project was authorized in 1970 by the Senate and House Committees on Public Works under the authority provided by Section 201 of the Flood Control Act of 1965. The States of Delaware and Maryland and the Commonwealth of Virginia no longer support the project. Maryland expressed environmental concerns while Delaware and Virginia withdrew support for financial reasons. As a result we have terminated preconstruction planning and have placed the project in an inactive status.

Sincerely,

ALVIN G. ROWE,
Colonel, Corps of Engineers, Assistant Director of Civil Works, Atlantic.

VIRGINIA WITHDRAWS SUPPORT FOR DELMARVA

PHILADELPHIA.—The Commonwealth of Virginia has withdrawn its support for the Virginia portion of the DelMarVa Intracoastal

Waterway Project. Virginia's action followed only a few weeks after the states of Delaware and Maryland withdrew their support for the project. A necessary prerequisite to Congressional funding of any Corps of Engineers project is the support of the state or states involved.

Since all three states involved have withdrawn their support, this eliminates the need for a public meeting which had been scheduled by the Army Engineers' Philadelphia District for June 16, 1976 at Parksley, Virginia.

[From the Salisbury (Md.) Daily Times, Apr. 22, 1976]

AN IDEA'S TIME PASSES

That dream of recreational boaters—an inland waterway from New York to Florida—appears dead now that Maryland and Delaware are pulling out of proposals to dredge such a channel behind the barriers from Lewes to Cape Charles.

Delaware's portion would run from Lewes to Fenwick Island. Maryland's would begin there and run to the Virginia line. The proposal envisioned widening and deepening an existing network of channels. Under the plan, boats up to 50 feet long could avoid having to go outside in the Atlantic Ocean on their north-south journeys.

Total cost of the project was estimated most recently at $21 million, up considerably since the idea was broached 20 years ago. Now, officials from Maryland and Delaware are critical of the environmental impact as well as the cost, and they question its value to the general public.

Virginia has not been heard from yet as to whether it would like to go along with the plan. Withdrawal of the other two states effectively kills it.

The project as envisioned by the Army Corps of Engineers surely would be of limited benefit to the general public. True, the channel could have been dredged even deeper to accommodate commercial craft at some later date, but it would have been at heavy cost to the environment of the barrier reefs.

These areas are the beginning of life for many living things in the sea, in the air and on the land. Each one is a chain in the link. Damage to one or more could well spell extinction for others. Man is already putting enough pressure on them.

Aside from the environment, there are other considerations—among them the conservation of energy. Americans simply do not believe there is an energy problem. The day of reckoning moves even closer when the problem will be acute.

GENOCIDE: A CALL TO ACTION

Mr. PROXMIRE. Mr. President, last week in Rome, Pope Paul VI closed a meeting of the leading priests of the Roman Catholic Church with a solemn appeal to all governments to show greater respect for human rights. He stated that it was "the basic duty of the state to protect and promote the fundamental rights of man" and called on those in power to fulfill this duty.

Regardless of personal religious beliefs, this message is directed to Members of this body. For 28 years the Senate has refused to protect and promote one such fundamental right—the right to life. What could be a more fundamental right than the right to exist as a people.

While the Pope's remarks were directed to religious freedom in the world; whether we are discussing genocide or religious freedom, the underlying concept of the need to protect basic human rights is the same. Because we are the body in control of the destiny of the Genocide Treaty in the United States, the Pope's message serves as a special "call to action."

At a time in our history when a stance on human rights can no longer be postponed, these words further remind us of our responsibility to this cause. For nearly three decades we have neglected this duty and as a result, we have failed to assure the protection of these fundamental human rights.

It is time for us to take our place alongside other nations in ratification of the Genocide Treaty. I urge my colleagues to fulfill this duty to life itself.

ADMINISTRATION POLICY IN THE MIDDLE EAST

Mr. THURMOND. Mr. President, since the founding of Israel, the United States has shown an inflexible commitment not just to the survival but to the success of this unique country. There are good reasons for this. A sizable number of Jewish Americans have settled in Israel. Many more have relatives there. Israel is the only democracy in the Middle East. Israel has taken a strong position against communism and terrorism. In short, Israel is our ally and friend. These reasons are just as compelling today as they ever were.

Sadly, however, the official U.S. attitude toward Israel now seems to be in a state of flux. Recent statements and actions by administration officials, including the President, have raised doubts about our longstanding policy in the Middle East. Particularly unsettling is the idea that the United States might try to impose upon Israel a settlement that the Israelis believe would promote and perhaps even assure their ultimate destruction.

In this atmosphere of uncertainty, I want to make my own position clear. My attitude, at least, is unchanged. I consider our commitment to the survival and success of Israel to be a solemn obligation. We should stand by this commitment without equivocation—as a matter of principle and of national interest.

HUBERT H. HUMPHREY

Mr. ANDERSON. Mr. President, I have previously submitted for the RECORD several newspaper articles and columns that have appeared on our colleagues, Senator HUMPHREY, since his return to the Senate last week. I request unanimous consent that a column by James R. Dickenson, "Humphrey Strengthens Our Beliefs," from the Washington Star of Monday, October 31, 1977, be printed in the RECORD since it appeared after my earlier submission to the RECORD.

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

[From the Washington Star, Oct. 31, 1977]

HUMPHREY STRENGTHENS OUR BELIEFS

(By James R. Dickenson)

One well-known national television correspondent, a veteran of years of covering the U.S. Senate, probably spoke for a lot of his colleagues after the rousing, emotional welcome Hubert Humphrey received on his return to the Senate last week.

"I was kind of hoping the guys in the press gallery would break tradition and stand up and applaud, too," he said. "I was ready."

The 30-minute tribute on the Senate floor to Humphrey, who had just returned from Minnesota and is sufferng from inoperable cancer of the pelvis, was as deserved as it was ardent, moving and sincere. There are few politicians in our history who have been as loved, personally, as the practitioner of the politics of joy, and with good reason.

Hubert Humphrey epitomizes some of the best traits of the American character, some of the characteristics that we like to think identify us as a people: decency, warmth, generosity, openness, compassion, and optimism. It doesn't matter that occasionally he is optimistic, loyal and exuberant to excess. That, too, is as American as apple pie.

His reaction to the diagnosis of his cancer was absolutely typical. His response was to spend the next few days politicking in the wards, giving the other patients non-stop encouragement, advice and hope, telling them that, by golly, everything was going to be fine for him and for them, too.

Only with Hubert Humphrey would you read that and say to yourself, "Of course, that's exactly what he'd do."

Humphrey has been in the forefront of the fight for all the major reforms and legislation of compassion since he entered the Senate in January of 1949. He held the Democrats' feet to the fire on civil rights back in 1948 long before the issue was popular and he's never looked back in his headlong quest for equality and justice.

He has brought an impressive intellect, a seemingly boundless compassion and an awesome energy to this quest. His warmth and generosity are so genuine that people all over the country, not just in Minnesota, greet him with the ease and familiarity they would show a favorite uncle.

At the county fair in Cambridge, Minn., when he was running for the Senate back in 1970, Humphrey was walking past the bingo stand. The man wearing an American Legion overseas cap who was running the game called out: "Well, there's old Hubert H. himself. Sit down and have a game, Hubert."

It was obvious that the one thing the candidate wanted more than anything else in the world was a game of bingo. "Well, by golly, I think I will," he responded and sat down next to a mother and her 8-year-old son.

The boy got his hand shaken, his head patted, an admonition to obey his mother and an autograph, all without asking. His mother displayed no more surprise if Humphrey had been her brother.

He gets the same response wherever he travels in the country. In the Phoenix airport in 1972, just before he formally announced his presidential candidacy, he was recognized by everyone he encountered. It seemed that a majority had relatives or knew someone in either Minnesota or South Dakota and just had to remind Hubert to say hello to them when he returned home.

And his energy! He said last week that he was at about 70 or 75 per cent of par and that made him about the equal of the average person. That may be giving the rest of us the benefit of the doubt.

Campaigning with Humphrey unravels reporters 30 years his junior. Flying around Minnesota he exults in the sight of schools and churches and hospitals and towns, of farms and factories and cultivated fields.

He regards such human accomplishments as not only the realization of the American Dream but the opportunity to enjoy them as a personal gift.

Toward the end of one of those incredible 14- and 16-hour days he was ready to charge

off to a Minneapolis shopping center and meet some more folks despite the patient admonition of his wife, Muriel, who was doing needle-point: "Now, dear, don't you think you've done enough for one day?" The answer of course is that he never does.

He wound up the day at his house in St. Paul telling an exhausted reporter of the need for more jobs and education, more hospitals and schools, more equality and opportunity, more of everything of the American Dream.

It's no wonder that the prospect of talking to Humphrey is something one looks forward to with pleasant anticipation or that just seeing him on the streets raises the spirits.

His optimism and exuberance are contagious. He reminds us of how good we can be and makes us feel better about ourselves. He strengthens our belief that this American experiment really does work.

That's why it was so good to see him last week. We didn't realize how much we'd missed him until he returned.

THE URGENT NEED FOR SENATE ACTION ON NUCLEAR NONPROLIFERATION

Mr. PERCY. Mr. President, I know I speak for many of my colleagues in expressing my disappointment that it was not possible to schedule S. 897, the Nuclear Nonproliferation Act of 1977, for consideration on the Senate floor this year. I feel confident the President shares this disappointment. This bill, which is the product of more than 2 years of intensive work, has been reported unanimously by both the Governmental Affairs and Foreign Relations Committees, and the Energy and Natural Resources Committee has completed its consideration of these sections within its jurisdiction. Similar legislation has already been passed in the House by a vote of 411 to 0.

I am confident that the leadership will schedule this legislation for early consideration in the next session. In the meantime, I hope that the administration will pursue the many negotiations which are called for in this bill and which we all agree are vitally important to U.S. security and world peace.

When the United States launched the atoms for peace program more than 25 years ago, we did so with the best of intentions. Seeing a great opportunity to promote international prosperity through the peaceful use of nuclear power, we assumed that only the most sophisticated nations would be capable of utilizing this technology for its original purpose—nuclear weapons. In retrospect, it is easy to see that we were gravely mistaken.

In 1964, the People's Republic of China proved that a determined nation could develop nuclear weapons without a solid industrial base. In 1974, India detonated what they called a "peaceful" nuclear explosion—an especially alarming watershed as this demonstrated that a developing nation could produce nuclear weapons from a program designed for peaceful nuclear power purposes. And just recently, South Africa proved once again that proliferation is a real and present danger. A total of six nations have now detonated nuclear explosives, several more could launch such a program at will, and many others may well join this club within the next decade

There have been a few encouraging signs that the proliferation problem is not entirely hopeless. Although the 1974 Indian explosion was a devastating blow to the cause of nonproliferation, India has exercised restraint since that time with respect to the further spread of such technology. I am especially pleased with Prime Minister Desai's recent statement that India will not detonate any further nuclear explosions—"peaceful" or otherwise.

If India continues on this laudable path by accepting international safeguards on all of her facilities and by working to persuade other nations to participate in strict and effective international proliferation controls, she can make a great contribution to peace on the subcontinent and throughout the world.

I am also encouraged by the progress which has been made towards establishing, for the first time, uniform guidelines among nuclear suppliers to halt the destructive influence of economic competition on international efforts to place effective controls on nuclear technology. However, while real progress has been made in terms of controls on conventional facilities, much remains to be done with respect to full-scope safeguards and adequate controls on advanced technology.

Finally, the Soviet Union—which has for some time worked closely with us in combating proliferation—has taken a major step towards breaking one of the principal remaining barriers by calling for a moratorium on all nuclear explosions, "peaceful" or otherwise.

The United States can and must assert strong and creative leadership to achieve continued progress by making non-proliferation a primary goal of our foreign policy. For years, both Republican and Democratic administrations have treated nonproliferation as a long-range goal, receiving only sporadic attention by top officials. While I am greatly encouraged by the far greater attention which has been given to this issue in recent months by the Carter administration, much remains to be done.

We cannot afford to leave anywhere the impression that we are not really serious about halting the spread of nuclear explosives capability. Until it is clear that there are serious diplomatic costs associated with developing such explosives, other nations will assume that they can take that route with impunity.

During the 94th Congress, countless hours were devoted to the task of breaking new ground with Senate legislation to formulate a coherent U.S. policy in this field, including strengthened nuclear export controls and a call for new diplomatic initiatives. Although no final action was taken last year, congressional efforts did contribute to a new awareness of the problem. This process began anew in January of this year, as we worked closely with the Carter administration to fashion workable legislation in this field.

S. 897 sets forth a comprehensive yet flexible approach to the proliferation problem, taking into consideration both the need to establish tough new controls on the spread of nuclear technology and the need to insure U.S. participation in worldwide nuclear trade. The bill establishes important new criteria to govern the transfer and use of U.S. nuclear export items, and requires accelerated negotiations to achieve international cooperation in harnessing this technology and in developing alternative energy sources. In addition, the bill calls for measures to insure a reliable supply of nuclear fuel to nations which are willing to adhere to effective controls, providing an incentive for those nations whose interest in nuclear power is purely peaceful to refrain from acquiring dangerous national facilities. Finally, the bill contains a number of organizational provisions to strengthen the formulation and management of U.S. nuclear export policies.

S. 897 has been carefully drafted to minimize conflict with our existing agreements and to provide an opportunity to strengthen those agreements prior to the implementation of strict new controls. Moreover, in recognition of the fact that circumstances and political imperatives vary from country to country, the bill provides for the flexibility needed to reach practical solutions.

One issue which may surface when this bill is debated on the floor is how it will affect the U.S. role as a reliable supplier. There is no question that being a reliable supplier is vital in maintaining a healthy competitive position, and as an important source of leverage for imposing effective safeguards on nuclear technology. Yet I am unable to accept the notion that being a reliable supplier requires a ministerial approach to nuclear export licensing.

The fundamental policy decisions regarding the desirability of nuclear trade with a particular country and the type of controls to be applied should be made during the negotiation of agreements for cooperation—not when application has been made for the export of a particular commodity under the provisions of that agreement. It must be the clear policy of the United States to honor its commitments to supply nuclear commodities if the recipient country has acted in good faith with respect to its peaceful-use assurances. That is the essence of being a reliable supplier, and to arbitrarily vary our requirements as they apply to each specific export would obviously do grievous damage to the position of the United States as a reliable and honorable partner in international trade.

However, agreements for cooperation remain in effect for 30 to 40 years, and the safeguards which are agreed upon at the outset may well prove to be insufficient in light of changing circumstances. It would be highly irresponsible for the United States to rely solely upon the conditions which prevailed when an agreement for cooperation was originally negotiated in determining whether or not a pending export license would be inimical to the common defense and security.

Such a ministerial approach, although it certainly would be attractive commercially, would abdicate our responsibility

to insure beyond a reasonable doubt that U.S. nuclear exports will not be used for military purposes. Instead, the United States must carefully analyze each proposed export to insure that the fundamental spirit of our agreements for cooperation—to provide assistance in the peaceful uses of atomic energy—and not just the letter of those agreements, is upheld. It is also vital to maintain a healthy, independent check on U.S. promotional and foreign policy interests in making these crucial assessments—a role which the Nuclear Regulatory Commission has performed well in recent years.

Another concern which has been raised is that S. 897 would cause procedural delays in the nuclear export process. The organizational aspects of this bill are sound, and will not result in unnecessary delays or opportunities for dilatory action. However, in order to make absolutely certain that there will be no such problem, Senator GLENN, Senator MCCLURE and I have worked out a series of amendments to provide further assurances of an expeditious process without compromising the basic policy features of the bill or hampering the responsible agencies in dealing with changing circumstances.

While the current language of S. 897 does not embody all of the provisions which would make a positive contribution, it is a real step forward. Unless we act quickly to establish a basic framework for U.S. nonproliferation policy, we will merely be spinning our wheels with a continued debate on the groundrules while larger issues slip out of reach.

NEW ENERGY SOURCES

Mr. ANDERSON. Mr. President, this session's long and arduous debates over energy supplies and energy shortages should make us more appreciative of technological breakthroughs leading to new energy sources.

We have all listened to and read the oil companies' claims that they are spending millions of dollars looking for new sources of energy. The Federal Government is also spending substantial sums on developing new sources of energy—to some extent from alternative sources.

Technology does not progress only from the efforts of big business and Government research. Society often benefits from the hard work and ingenuity of the solo practitioner who diligently pursues his or her idea against enormous odds. Spurred by a firm belief that their ideas will develop into a useful, viable product, these lonely inventors are the spiritual descendants of Bell, Edison, and Fulton.

Mr. President I am proud to number among my constituents an inventor whose diligence may result in an energy bonanza for the American farmer. For 15 years Mr. Les Grove, of St. Paul, Minn., has been working on a process which may do more to alleviate our energy shortfalls than anything the oil companies or the Federal Government has accomplished thus far.

Mr. Grove will soon release a recipe for an "organic fuel." The process uses enzymatic action and filtering to transform high-fiber material such as corn stalks, corn cobs, or sorghum into fuel for gasoline engines. Some byproducts of the process include fertilizer, cattle feed, human food, potting soil, ethanol, and ethylene.

Mr. Grove estimates that farmers will need to spend $35 on the enzyme to mix with about a ton of dry material to produce 350 gallons of fuel. The income from the sale of the fuel and other products may allow farmers to achieve economic independence and to replace OPEC as a major source of energy for all Americans.

Les Grove deserves special commendation for his efforts. I know my colleagues join with me in wishing his success.

I ask unanimous consent that the full text of the article be printed in the RECORD.

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

ORGANIC FUEL RECIPE WILL FREE U.S. FARMERS, ST. PAUL INVENTOR SAYS

(By Brian Howell)

Les Grove believes the secret to the impending energy crisis lies within the agricultural community, not with the barons of the petroleum industry.

Grove, a middle-aged, spunky and to-the-point St. Paul engineer, is about to release a recipe for an "organic fuel" that, he says, will free the American farmer from the binds of the petroleum industry.

History, Grove said in an interview Wednesday, has some important lessons to teach and he credits his interest in history for his discovery. A holder of 27 patents on his own inventions over the years, Grove has spent endless hours in Washington pouring through records in the U.S. Patent Office. Something he saw caught his eye, so he turned to the history books.

In his reading, Grove learned that the U.S. Army during World War II isolated a fungus causing a condition known as "jungle rot," which plagued troops in the South Pacific. The fungus, called "trichoderma viride," the Army learned, could attack any organic material and break it down. While attempting to arrest the disease, Grove said the Army scientists learned that a combination of the fungus—or enzyme—and organic material yielded a glucose "syrup" that could be refined into ethanol. The Army patented the enzyme.

Enter the ambitious Grove. "It was a government patent and I knew it would have to be released to the public sooner or later," he said.

That was 15 years ago, and, since then, Grove has been perfecting a method—and a machine—to be utilized by farmers to produce their own fuel.

"You can use any high-fiber material such as corn stalks, corn cobs, straw from cereal grains, grass or wood," Grove said, "but we're finding that sorghum or Jerusalem artichoke works the best."

With an abundance of agricultural products in the Midwest, Grove described how his plan will ease the nation's energy problems as well as the farmer's economic woes.

The enzyme, produced like a yeast fungi, can be produced in a single laboratory in each state and sold to the farmers.

"The farmer hammer-mills (grinds) his product, such as straw, and mixes it with the enzyme and water in a hydrolysis unit," Groves explained. "He then heats the mixture, which is agitated under pressure, and maintains it at 120 degrees Farenheit for 24 hours."

"This yields a liquid which is filtered three times. After the first filtering, 80 percent of the solids are removed. These can be used as organic fertilizer or converted to human or cattle food.

"The liquid is filtered again," Grove continued, "and these solids—about another 10 percent—can be used as a very fertile potting soil additive. Now, the remaining liquid will burn in any oil furnace, or in diesel tractors or trucks."

Only after a third filtering and another catalyst is added (Grove wouldn't say what that catalyst is, but that it can be purchased in most drug stores) can the fuel be burned in a gasoline engine.

But that's not all. Grove said the liquid has other uses. After step two, the liquid also can be processed into ethanol, or ethylene, which can be utilized by the plastics industry to make the same products they now make petroleum products with."

Grove predicted the farmer will pay about $35 for enough enzyme, using about a ton of dry material, to produce 350 gallons of fuel. Not only can the farmer become energy self-sufficient, Grove said, but he'll be able to sell any excess fuel in the market to supplement his annual income.

That additional income, which Grove figures will make the farmer more independent, is an idea that excites him. I know all about the farmers' plight," Grove said. He's been brainwashed into specializing and his biggest problem now is that he only sells one product.

The dairy farmer only sells milk, and the wheat farmer only sells wheat and they all have to accept the price the market is paying. This plan will give him extra money to live on, and when he doesn't like the price he's getting for his products," Grove said, gesturing, he can tell the buyer to stick it up his fanny."

Within four years," he continued, farmers in this country could replace all imported Arab oil."

Grove figures pressure from petroleum interests is the reason this idea hasn't been developed before. He also figures they will be "hot" when his plan is implemented—but he has no doubts it will develop.

He has received calls from all over the Midwest about the program, he said, and is preparing to deliver a press conference in South Dakota, Iowa and Minneapolis this week. (Grove answered telephone inquiries from Indiana and Ohio during the course of an hour-long interview and received one request to appear on a local TV show.)

Of course, Grove himself stands to gain considerably from his plan. "My interest," he said, "will be a very small royalty from the sale of the fuel." He'll also own the patent on the system he's designed for fuel production.

Grove said his plan is merely utilizing solar energy to its fullest. "It's Mother Nature's way of giving us energy," he added.

FLOOD INSURANCE

Mr. EAGLETON. Mr. President, this morning's Washington Post reports that the Department of Housing and Urban Development has decided to federalize the national flood insurance program.

I am not prepared at this time to judge whether this so-called part B takeover is justified or in the public interest. The program is obviously in very serious trouble and the situation continues to deteriorate. But, is it a solution to allow the same department which has had a hand in bringing about the present mess to take it over completely? Are the interests of the 1 million flood insurance policyholders going to be served by putting HUD directly in the

insurance business with all claims to be processed through a centralized system here in Washington? Can we have any confidence that a combination of HUD bureaucrats and a computer firm which has absolutely no experience in the insurance business—and that is the HUD plan—is going to be able to do the job?

I do not know the answers to all of these questions, but I do know this: The action which HUD is taking is a major one and should not be allowed to proceed without a careful review by Congress. And that is what the law provides.

Section 1340 of the National Flood Insurance Act of 1968—as amended—says as follows:

Upon making the determination referred to in section a, and at least 30 days prior to implementing the program of flood insurance authorized under Chapter 1 through the facilities of the federal government, the Secretary shall report to the Congress and such report shall—

(1) State the reason for such determination

(2) Be supported by pertinent findings,

(3) Indicate the extent to which it is anticipated that the insurance industry will be utilized in providing flood insurance coverage under the program, and,

(4) Contain such recommendations as the Secretary deems advisable.

Mr. President, the Department of Housing and Urban Development served formal notification of the action to be taken only 2 days ago. Despite reports to the contrary, I have been assured by the general counsel of HUD that no binding contract or commitment will be signed until after expiration of the required 30 days. However, I am convinced that more than 30 days will be required to unravel all the facts of this matter. Let me touch on just one aspect of the situation—the cost.

In the document sent to Congress and in subsequent press releases, HUD has claimed that federalization of the program would result in a $15 million annual savings. In support of that claim, a memorandum was circulated by at least one HUD official and represented to be a kind of GAO endorsement of the HUD action. Mr. President, that is not the case. The memorandum in question was nothing more than the off-the-cuff impressions of one GAO analyst, who insists that it was never meant to be anything more than an outline for discussion of the subject. In fact, even that outline raises very troubling questions about the accuracy of the claimed savings.

The GAO analyst informed my staff that he was importuned by HUD to prepare the memorandum for a briefing session, and it is significant that the memorandum carried no letterhead or any other attribution to GAO. The only indication that the document had some connection with GAO was a handwritten note on the upper right hand corner—"GAO."

This same memorandum was represented to members of my staff by a representative of HUD to be GAO validation of HUD's claims. I understand that similar representations were made elsewhere on the Hill. The fact is, Mr. President, GAO tells me it is no such thing and that it would take 3 or 4 months to review the cost comparison as between a HUD-run program and the present subsidized, private insurance system. I have today asked the GAO for a letter disclaiming this misleading representation.

In a further effort to disarm opposition to HUD's going into the insurance business, the Department commissioned an evaluation by a company known as the Actuarial Research Corp. This so-called evaluation was commissioned on October 28, with orders that conclusions be reached by November 1. To attempt to palm off such a quicky study as any kind of substantive evaluation is amazing in itself. But even if we accept that, the study itself raises serious questions about the takeover. Specially, the study as this to say:

Under neither option can the level of Federal costs be determined accurately in advance. The RFP requested proposals on a cost-plus fixed fee basis (referred to hereinafter as "cost-plus"). If a contract is negotiated on this basis, the contractor is not bound by the estimates in the bid, except for the fee, which constitutes only 10 percent of the estimated cost. If additional funds must be expended to administer the program, the cost is borne by the program. In fact the circumstances furnish an incentive to potential contractors to underbid. To the extent that estimated costs are a factor in awarding a contract, their chances of success are enhanced. Since the FIA could not cancel the contract in the short run or rebid it without materially affecting the flood insurance program, the contractor would not suffer any adverse consequences from an underbid.

Mr. President, as I said earlier, I am reserving judgment on the wisdom of letting HUD move into the insurance business. But I cannot disguise my skepticism. In my opinion, no department of the Federal Government has bungled more programs and is more mismanaged than HUD.

Certainly Congress should insist upon a careful evaluation of the highly suspect cost savings claimed by HUD before any final action is allowed to take place. Congress should not be stampeded into quick approval on the notion that we have no time to properly consider the matter. The Department of Housing and Urban Development has been formally advised by the National Flood Insurers Association that it will extend its present contract beyond the December 31, 1977 expiration, in order to give Congress the time to make a reasonable judgment. Clearly that time will be needed and I have urged the Department to accept that offer.

ENERGY LEGISLATION

Mr. JAVITS. Mr. President, as is well known, enactment of energy legislation has been one of the most—if not the most—important issues facing the Congress this session. In this morning's Washington Post, our distinguished colleague from Illinois (Mr. PERCY) published an article which discusses the Senate's record in this regard.

I found the article to be candid and provocative and it could serve as a basis for discussion of our future course of action with respect to energy legislation. Therefore I ask unanimous consent that Senator PERCY's article be printed in the RECORD.

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

[From the Washington Post, Nov. 4, 1977]

A "DISMAL" SENATE RECORD ON ENERGY

(By Charles H. Percy)

I am deeply disturbed that the Senate is acting as if the energy crisis is not real.

Our track record to date is dismal. A number of urgently necessary but politically unpopular measures have been defeated, including a wellhead tax on oil, a gasoline tax, an oil and gas users' tax, and electric rate reform. The Senate instead has adopted only the easy, the popular and the most palatable: tax credits, loan programs and studies that will postpone needed reforms. But even these measures are in jeopardy unless agreements with the House can be reached.

It would be unconscionable for Congress to adjourn this fall and go home without developing a long-overdue national energy policy. This year we will import almost 9 million barrels of oil a day, at a cost of $45 billion. This is double the volume and almost 10 times the cost of oil imports in 1972, the last year before the embargo. What will we say to our constituents when they ask what we have done to cut imports? How will we explain to them that the Congress was incapable of tackling the problem? We need at least a significant start in this session, a bill on which we can build next year and in subsequent years.

I fear that we in the Congress have so far failed to attend to the long-run basic interests of the American people. For several years we have told each other in the cloakrooms that we need an energy plan. Now the House has presented us with one, but we have decimated it. Undoubtedly this is due in some measure to sharp but honest differences of opinion over what the policy should be, but it is also due to the public's apathy and to the credibility gap associated with the energy crisis. However, the Congress must take a large part of the blame for not alerting the public and educating them to the facts.

I fully support free-market pricing of new fossil fuel supplies. Higher prices will encourage new production. But I am under no illusion that new oil and gas supplies can be more than a stopgap measure while we shift to use of renewable resources.

The other new centralized technologies likewise hold little promise as more than supplemental solutions. Severe technological, social, financial and environmental problems plague the breeder reactor, synthetic natural gas, shale oil and other similar technologies. Most of these technologies are uneconomical. Some will cause serious changes in lifestyle and standards of living. To promote them would involve large and perhaps permanent government subsidies. The free market will not support them. I suggest we not disregard its signals.

We need instead to recognize a fundamental principle: Energy is a means, and not an end in itself. We should define the energy problem more accurately as the challenge of meeting our social and economic goals with the minimum amount of energy necessary. We must dispel the myth that increased use of energy means a better life, and that less energy means a lower standard of living. Instead, we should first pursue and give high priority to the one policy that makes the most economic sense: converting energy waste into energy supply through conservation.

Those who support a "strength-through-exhaustion" policy tends to describe conservation as curtailment: wearing sweaters in 60° buildings, waiting in line for gasoline and limiting economic growth. They seem unable to understand that we can mine energy in buildings, cars and industrial processes with insulation, more efficient engines, and better control systems. Conservation is energy supply. It is invariably our least expensive new supply option.

We need to reform rates for gas and electricity to eliminate volume discounts. The days have long vanished when the utility industries and the country can reward large users for wasting these precious resources in impressive amounts. Although I disagreed with the heavy-handed approach to rate reform the House took, I feel the electric rate bill the Senate passed is hardly worth having. I hope conferees will agree to at least allow federal appeal of state utility commission decisions and to permit federal guidelines on marginal pricing as the Department of Energy has urged.

We also need to eliminate subsidies to conventional energy technologies so that consumers, not taxpayers, pay for existing energy supply. This includes doing away with tax and accounting loopholes for fossil-fuel producers and electric companies. It includes incorporating all environmental costs into the price of energy. For example, the cost of radioactive waste disposal should be part of the price of electricity from atomic plants. Fossil-fuel-burning plants should not be allowed to impose costs in the form of death and respiratory disease from air pollution on to those who live downwind.

Individual subsidies must also go. Federal government employees should not be given free parking at taxpayers' expense, thus making the use of public transportation uneconomical. Consumers should not deduct state and local gas taxes on their income-tax returns, a further subsidy to the automobile that costs the Treasury over $700 million a year. I hope the Senate will restore the repeal of this deduction to the tax bill.

We must understand that the free market, with all of its advantages, has certain limits. It can deal only with efficiency, not with equity, and thus takes no account of income distribution. It will fail to develop and commercialize rational new technologies than take longer to commercialize than the three to seven years for which businesses usually plan. The market puts no price on national security to be obtained from independence from foreign supplies. It makes no distinction between depletable and nondepletable resources and does not take into account the needs of future generations. Because of economies of scale in production it has difficulty making products appropriate for localized and small-scale use. Finally, in many cases energy is either too small a proportion of total cost for rational businesses or consumers to bother to save it, or else those who pay for energy are not the same persons as those who decide how much is used.

We must be willing to intervene appropriately in these cases. It is necessary to ameliorate the effects of high energy prices on low-income groups and other special hardship cases with rebates, weatherization programs and similar special assistance. Such provisions are in the bills from both chambers. The government must act as a catalyst to help the Invisible Hand of the market to research, develop and commercialize renewable energy resources, such as the wind and the sun.

In another century and in another forum, Edmund Burke said:

"The public interest requires doing today those things that men of intelligence and good will would wish five or 10 years hence had been done."

We must act in the public interest here today, or else our constituents will face the stern education of hardship in five or 10 years. The approach of statesmen must be to educate the public today about the seriousness of the crisis and about how more efficient use of energy can help to solve it. Such teaching and learning are the keys to preventing a dark and cold tomorrow.

MINORITY BUSINESS AND ECONOMIC DEVELOPMENT ACT

Mr. NELSON. Mr. President, Small Business Administration programs that are designed to develop business ownership by minority individuals badly need reform. There has been a great deal of discussion recently about abuses in the SBA's so-called 8(a) minority business development program. Many have commented on the cases where unscrupulous white businessmen have used blacks to personally benefit from contracts let under the 8(a) program.

What has not been discussed, however, is that even if there was never one case of fraud or deception involving participating firms, the 8(a) program is still in deep trouble. Since it was created, 3665 firms have participated with a little more than $1.9 billion worth of contracts let to them. Of those 3665 firms, there have only been 103 firms that have successfully completed the program. 1085 were dropped from it by SBA for various reasons. Another 543 firms withdrew voluntarily, and 355 firms left it because of business failure.

Such poor results are partially due to ineffective management in the SBA, but they are largely due to poor program design. The "Minority Business and Economic Development Act," which I and Senator JOHNSTON have coauthored, addresses the problem of poor program design in SBA's business development efforts.

The bill creates a Bureau of Minority Business and Economic Development within the SBA. The Bureau, which will be headed by a presidentially appointed director, will manage a total business development effort. No longer will SBA's procurement division be responsible for minority business development. Under the bill, that division's only concern will be to find contracts for small business in order that all small enterprises will have their fair share of Federal business.

The Bureau will serve firms that are owned by minority individuals. For the purposes of this program, a minority individual is anyone who is socially or economically disadvantaged and will include but not be limited to Negroes, Asian-Americans, Spanish-speaking Americans of Spanish descent, and American Indians.

Among the Bureau's many responsibilities to minority small business clients will be loan packaging, financial counseling, marketing and accounting assistance, and organization, operations, and personnel management. The Bureau will also evaluate the impact of Federal support to minority small businesses and will analyze the reasons for success and failure of minority small business in this nation.

An effective business development program of this type is a very labor intensive endeavor. The Bureau will have enough personnel to permit each business development officer to have only a small number of firms to supervise and assist. Hopefully, the ratio will never be any higher than one development officer to ten small businesses.

Additionally, the bill creates special liaison between the SBA line functions of business lending and procurement and the development functions of the Bureau. A deputy associate administrator for Minority Business and Economic Development is created within the finance and investment division of SBA. This deputy's duties shall be to make certain that the Bureau's client firms receive timely and adequate financial assistance from SBA.

In the procurement area, the Bureau's director must appoint a special minority business and economic development procurement officer in each SBA field office that presently has procurement responsibilities. Without such a presence around the Nation, client firms will neither have enough nor the proper types of contracts to serve their development needs. SBA's existing procurement operation, which has no special minority business contracting officers, has not been able to meet the contracting needs of participating firms in the 8(a) development program. These new minority business procurement officers will be able to aggressively pursue contracting opportunities in a way that SBA has refused to do or been unable to do up to now.

The measures established by this bill represent a major step in creating a minority business development program that can meet the bold goals for expanding business ownership by minority individuals that have been pursued by every administration since President Johnson's. Broadening participation by minorities in the United States free enterprise system is essential if all Americans are to have the opportunity to feel an integral part of this Nation's economic system. The "Minority Business and Economic Development Act" will surely advance the potential for such a broader involvement by all minorities.

THE AGRICULTURAL SITUATION

Mr. McCLURE. Mr. President, in the 11 years I have served in the Congress of the United States, I have never observed a more frightening economic situation than that facing the agriculture communities of this Nation. I am not talking about just wheat growing areas and I am not talking about just small marginal farm operations.

The fact is that producers of wheat, corn, milo, sugarbeets, sugar cane, dry beans, potatoes, peas, lentils, cotton, and cattle feeders and the cow-calf operator—whether they be small, midsize, or large operators—are discovering it is awfully tough to pay-off last year's bills. Indeed, a great many well mechanized, hard working, and efficient farmers and ranchers are coming to the realization they may not be in business next year.

For those that do not realize the impact of this serious situation, let me enlighten them somewhat. Virtually 100 percent of the businesses that exist in rural, agriculture areas depend on farmers and solid farm prices for their livlihood. When farmers go, businesses go.

Every citizen of this country relies on farmers and ranchers to fill the shelves and counters at the local grocery store. When farmers go out of business, food becomes shorter in supply, and thus, more expensive for everybody.

For the last several years, the Government of this country has relied on agricultural products to equalize our severe balance-of-payment problems. Need I tell you what will happen to our trade deficit when large numbers of farmers and ranchers call it quits? I think the answer is painfully obvious. These are just three of literally dozens of severe problems that will occur—and in many cases have already begun—as more and more agriculture producers go under.

We now ask ourselves why this situation has occurred. Admittedly, farmers and ranchers may inadvertantly cause many of their own problems by growing too much of one thing or another in years they should be growing less. But many of these decisions are calculated risks and the agriculture producer knows it. Fluctuating prices are a way of life to the farmer and, for the most part, they consider diverse market activity as one of the aspects that makes farming "interesting and challenging."

However, when one couples this normal and typical agriculture activity with Government imposed regulations and decrees as well as Government inaction in certain areas, only one thing can be promised the farmer: Disaster.

Let me give a few examples to emphasize my point: Every time the EPA or FDA bans or restricts pesticides or drugs necessary for plant growth and animal health, farmers and ranchers lose money because of sickly animals and infested crops. Many new regulations, which result in overall increased costs to everybody, are often not necessary.

Next, on one Friday during the summer of 1975, the price of wheat in the United States was over $5.50 per bushel, a good price for farmers. Over the following weekend, the Government imposed a wheat embargo on certain overseas sales, thus causing a drop in price of over $1.50 per bushel in just 2 days. That price has since dropped another 50 percent to its present national average price of barely over $2 per bushel, obviously a devastating loss to wheat farmers nationwide. It may be argued that this price would have dropped anyway. While this might be true, the Government had no business meddling in the marketing affairs of our agriculture producers, an act which greatly hastened any possible decreases.

Last, in September of 1976, it appeared obvious to virtually everyone with any knowledge of the world's sugar market that large quantities of surplus foreign sugar were being dumped on the American market because, unlike every other major sugar-producing nation, we had no import quotas and very low import tariffs. Competing directly with domestic producers and processors, who themselves had large supplies of excellent weather and improved crop yields, more sugar was dumped in this country than our consumers could ever consume. Thus, the price of sugar in the United States dropped drastically to the below-production price of around 10 cents per pound. Over the months, many people have paid lip-service to this situation, supposedly trying to get some relief for sugar farmers. But in over 13 months, no assistance of any type has reached the pocket of the farmer, despite the fact that the Government's inaction is the basic reason the domestic sugar industry is slowly but surely going under. I could go on and on all day making references to the hundreds of ways this Government has irresponsibly and unnecessarily ruined its own farmers and ranchers.

So now, Mr. President, we in the Congress have been asked by our agriculture producers to give them a hand—to keep them on their feet until prices return to at least break-even levels. Grudgingly, we have authorized the spending of billions of dollars for direct subsidies and grants as well as for a variety of loans. While these measures may help producers ride out the worst of the "storm," the fact remains that the spending of this kind of money simply does not solve the problem.

The problem can only be resolved if the Government, once and for all, learns from its past mistakes and gets out of the business of regulating and controlling the production of agriculture commodities in the United States. At the same time, the Government must be cognizant of the various pressures placed on U.S. agriculture by other nations and be ready to act quickly when these pressures begin to adversely and unfairly affect the American farmer and rancher.

Only when the executive and legislative branches of the U.S. Government come to grips with these two points will American agriculture reverse its downward trend and again prosper as it has in the past and must in the future. Only 214 million Americans stand to benefit.

Mr. President, over the past several months, I have received hundreds of letters from agriculture producers in Idaho and throughout the country expressing their complaints and fears over their present economic situations. One such enlightening letter came to me recently from Mr. and Mrs. C. B. Shields, Jr. of Edcouch, Tex. I ask that this excellent letter be printed in the RECORD so that each Member of this body may read it and enlighten themselves on a very serious situation.

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

OCTOBER 7, 1977.

Mr. President and Members of the Congress: We farm approximately 4,000 acres in the Rio Grande Valley of South Texas. We employ seventeen people the year around; that number increasing to as many as 60 during irrigation of crops and harvesting of cotton. The farm is greatly diversified: cotton, feed grains, sugar cane, citrus, and cattle. We also own and operate Farm Aerial Services, which is, of course, dependent on agriculture.

When farmers diversified as we are, encounter financial trouble because of soaring costs and ridiculously low prices for farm products—we deem it necessary to speak with the President and Congress of our nation.

In addition to the plight of farmers raising the crops we do—we have a son-in-law who farms rice in Jackson County, Texas—a mother who owns a wheat farm in Mountrail County of North Dakota—and other members of our family farm in Mississippi and are involved with cotton, rice, and soybeans. Many neighbors and friends grow vegetables for fresh market and quick freeze, here, in the Rio Grande Valley. So, it is with first hand information we feel it necessary to speak with you. There has to be something seriously wrong when a farmer does not receive a fair price for any one of these commodities.

It is our contention that government should do one of two things: (1) stay out of agriculture completely, or (2) guarantee 100 percent of parity and regulate as deemed necessary.

May we give you several examples of why we have reached this conclusion?

Several years ago, on a specific Friday, we contracted to sell 20 carloads of feed grain for $5.75 a cwt. with an understanding with the grain dealer that on the following Monday we would contract between 20 and 40 carloads more at the Monday's price (which would likely have been close to $6.00). But on Sunday—President Ford asked the grain dealers to impose an embargo. Consequently, there was no sale on Monday—grain prices plummeted to $4.00 a cwt. The same year farm costs skyrocketed! We were faced with shortages in machinery, chemicals, etc. because many of these items were being exported to foreign countries. Grain prices have not been at a fair level since that time and this year we are forced to use the government loan program. In a television interview, Secretary Bergland stated that Japan and others are still afraid to deal with grain dealers of our country because of that embargo.

Another example occurred when a number of concerned farmers of the Rio Grande Valley pooled their resources to have a feasibility study made for sugar growing in our area, in order that the government might grant them a sugar allotment. Much money was spent on it and the government made it mandatory that these interested persons obtain financing for the building of a mill prior to the granting of said allotments. Finally, all requirements were met—and eventually the allotment was granted; but so late, that it was impossible to complete the mill by October 1 when harvest and milling should have begun. Not until December 1 were they able to begin milling. Then December 10, a devastating freeze struck, and damage to the cane was extensive, and losses to the farmers heavy; only a small acreage was spared. Many growers would have been wiped out that first year had this not been a co-operative venture. We feel that government red tape and slowness to action caused much of the loss. Had the mill been completed and harvest begun October 1, a great portion would have already been harvested and not nearly the acreage left standing for deterioration before it could be cut. At this time it was disclosed in news' reports that the United States had granted Mexico funds for building three new sugar mills. A country which subsidizes sugar prices to their growers and a country where human rights are ignored and men and women labor for a pittance. Is it any wonder our citizens sometimes ask, "Is our country really a government for the people?".

In several years the sugar prices climbed to a record high and it looked as if the

gamble of the sugar growers had paid off. Then we heard a news release quoting an official of the USDA assuring consumers that the price of sugar would level off and would drop to 20 cents in January—and for some reason, he was right. And the price has continued to decline and cheap imports flood our market. As a result of the depressed prices; the harvest of 1976–1977 yielded not one cent to growers. The price of the raw sugar covered harvest and milling expenses only.

For the year of 1977–1978 we have been promised a floor of 13½ cents, (52.5 percent parity), but in the legislation also is the stipulation that labor prices paid by growers will be set by the Department of Labor. Yet we must compete with imports from foreign countries who pay as little for an entire day's labor as we pay for one hour's work in the cane fields.

Farmers want clean air, pollution-free streams, and a beautiful country as much or more than any group of people in our nation and yet environmentalists continue to force regulations on us that could drive us out of business—if low price do not cause that first.

Right now cotton mills are faced with the necessity of many changes in their equipment in order to continue operation under EPA standards. Fifty two cent cotton does not now pay production costs for growers. Will this cost, too, be passed on to the growers? Or will the cotton mills be forced to close as the steelmills of Youngstown?

Why must so many products be imported? We love purchasing specialty items from our friends abroad, but our deficit in the world balance of trade is staggering and frightening.

We are unhappy with the job done by the Department of Agriculture. It seems they are dedicating their work to appeasing the consumer—not to the many farmers of our land whom, we feel, the department should represent.

Why do they not spend more time educating the public of the value the American food dollar purchases compared to that of other nations? Why not publish prices paid to farmers along with consumer prices? It is unfair for the public to feel they are being robbed by the rancher when the housewife pays $2.00 per pound for beef for which the rancher received 35¢ (and lost money doing it). Just recently we saw $1.29 a head cauliflower and 89¢ a bunch broccoli—how many consumers know the growers will be lucky to receive one cent a piece?

We think it is the job of the USDA to educate the public that the nation's farmer is not the "bad guy" who grabs such a large portion of his pay check. Housewives should be urged to determine just how much of her grocery dollar is actually spent on food. Consider all the items such as cleaning products, laundry products, fun and convenience foods, drinks and even cigarettes, that are purchased at the super market and are considered "food" when the grocery bill is discussed.

Citrus fruit is sold by the producer by the ton. About $60 a ton is the price for oranges right now. How many bags of oranges will $60 buy at the supermarket? We won't ask—how many bags of oranges 2,000 lbs. will yield.

Also the crop reports put out by the USDA are usually quite inaccurate and usually very influential to the market. If the accuracy cannot be improved perhaps they should be discontinued.

We fail to see how the farmer will derive any solution to his problems from the Farm Bill just signed by you, Mr. President. It has been necessary for us to put 1,700 bales of our 1977 cotton crop into farm loan. Now we are faced with a cotton program that creates a ceiling for the price of cotton. Our production costs, (confirmed by USDA figures), are somewhere between 60¢ and 70¢ per pound (excluding land costs). The new law creates a ceiling price at approximately 52¢ a lb. (at that point, imports will be permitted) we are told. Just how can this bill be of benefit to the cotton producer when it not only does not guarantee, but also does not permit a return of production costs?

It seems it should also be the task of the USDA to point out to the nation how little of the total cost of the Farm Bill actually goes to farmers. The food stamp program and food for peace will be a greater cost to the nation according to information available to us.

The Congress has deemed it necessary to vote a cost of living increase in their salaries—and we do not quarrel with it; but—where does the farmer—whom, we are told is the nation's largest consumer, get his cost of living increase? Out of prices for his products that are already below the cost of production?

We realize this is a lengthy letter for you to take the time to read, but we haven't begun to tell you of the problems the farmer in our country is faced with today.

We supported your campaign, Mr. President, and voted for you and urged our family and friends to do so also. We attended your rally in McAllen and were convinced you were a man who would listen to his people—and that you, as a farmer yourself, would do your utmost for the farmers of this nation.

We have three sons whose ambitions were to farm, but sky rocketing costs and low farm prices have whisked away those hopes and dreams. If proper action does not come quickly the family farm of America will be just a memory.

Right now our farmers provide abundantly for the needs of our nation and many nations of the world; but, if the cry for help coming from every farming community in our country is unheeded—more and more farmers will leave their land (2,000 in Texas alone last year). The energy crisis is indeed a serious problem—but has anyone considered the devastating effects of a food crisis? Has anyone considered the seriousness of being dependent on other nations for food; as we are for much of our petroleum? What can a hungry nation do for the world?

Again, we suggest a more serious consideration by the President and the Congress. Could non-governmental intervention be a solution to our problems? If not, surely 100 percent of parity can be the only decision one could make in good conscience.

We would urge you, Mr. President, and the congress to dedicate yourselves to fulfilling the needs of the people of your nation first.

Although we are not in accord with much that has been accomplished during your administration—we continue to pray for you and your Congress to work together in harmony—in order that "all things may work together for good to them that love God."

Sincerely,

Mr. and Mrs. C. B. SHIELDS, Jr.

ANNUALIZATION OF WAGE REPORTING

Mr. McINTYRE. Mr. President, over the past few years the Senate has discussed the problem of how to cut down Government paperwork. One of the areas where we have acted is to annualize wage reporting to the Social Security Administration to cut down the amount of paperwork that many small businesses must complete.

Part of the social security amendments passed by the House of Representatives, but not included in the Senate bill, would provide for total annualization of wage reporting to the Social Security Administration and would mean a significant reduction in paperwork to businesses and to the SSA itself.

Because the Senate Finance Committee has not had a chance to examine the issue in hearings, I have held off introducing an amendment to the pending bill which would provide for annualization of wage reporting. However, for the benefit of my colleagues I would like to insert the position paper on annualization by the Commission on Federal Paperwork, where I served as cochairman with Representative FRANK HORTON of New York. I would like to endorse the concept which is included in the House bill, and would urge the Senate conferees to consider this concept favorably when working out a measure for our final approval.

I ask unanimous consent that the position paper be printed in the RECORD.

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

POSITION PAPER

TRUE ANNUALIZATION OF WAGE REPORTING

I. Statement of the Issue

On January 2, 1976, President Ford signed a law, P.L. 94–202, which would permit employers to report quarterly wages paid to employees on an annual basis. The law is scheduled to be implemented on January 1, 1978. Employers will report the wages to the Social Security Administration (SSA) on a revised IRS Form W–2 which will then be forwarded to the Internal Revenue Service (IRS). Although this change will save money for both employers and the Government, additional savings from truly annual wage reporting (i.e., total annual wages without quarterly breakdowns) will not be realized. SSA has prepared draft legislation which would truly annualize employer wage reporting and provide for increased savings to Government and the private sector.

II. Source of the Issue-Background

As early as 1955, the second Hoover Commission identified the excessive paperwork involved in employee wage reporting borne largely by the country's small businesses. They suggested that the excessive wage reporting to IRS on the W–2 and 941 forms be reduced. Since the Hoover Commission's report, combined annual wage reporting has been proposed to Congress in numerous Presidential messages.

In September 1971, the President's Advisory Council on Management Improvement released its "Report on Multiple Wage Reporting systems." In this comprehensive report, the Advisory Council proposed the elimination of the detailed wage information on IRS 941 and endorsed the concept of annual reporting by employers of employees' annual wages on the IRS W–2 form (true annualization). They also recommended that the Department of the Treasury and the Department of Health, Education, and Welfare jointly design such a system of annual reporting.

In February 1973, the Director of the Office of Management and Budget instructed these two executive departments to design an annual wage reporting system. In October 1974, Congress passed a bill which required the Secretary of the Treasury and the Secretary of Health, Education, and Welfare to study systems of combined social security and income tax reporting on an annual basis. Their report, submitted to Congress on December 31, 1974, contained an evalua-

tion of various alternatives and measured the effects and cost implications for employers, the IRS, and the SSA.

In this report the Secretaries of Treasury and HEW noted that "single annual reporting of wages has the potential for substantially reducing the Federal paperwork burden on employers, for improving compliance with the income tax laws, and for bringing about a net savings in Federal Government administrative costs." The Secretaries recommended the adoption of a truly annualized wage reporting system such as the one SSA is planning to transmit to Congress. They emphasized that "the benefits to employers and to the Government as a whole, which annual reporting is designed to achieve, would not be fully realized under an annual reporting system with a quarterly breakdown of wages."

The Commission on Federal Paperwork endorsed the concept of combined annual wage reporting at its first meeting in October 1975. The legislative effort for employee wage reporting reform was spearheaded by two members of the Commission. In July 1975, Senator McIntyre introduced a bill which provided for annualized wage reporting. Senator Brock attached the bill to a Finance Committee measure in December. The bill passed and was signed into law in January 1976. Since then, the Commission has worked with both IRS and SSA to ensure the new reporting system will be implemented in a timely manner.

III. Summary of Findings

Although major changes will be necessary in the method of determining coverage for employees in the Social Security Program, we find that the annual reporting system proposed by the SSA in the Combined Social Security and Income Tax Annual Reporting Amendments of 1977 would create significantly greater advantages than annual wage reporting with quarterly breakdowns.

ADVANTAGES TO EMPLOYERS

With the passage of P.L. 94–202, employers were assured relief from reporting detailed employees' wages quarterly on the IRS Form 941. In their 1971 report, the President's Advisory Council on Management Improvement estimated that if the detailed wage data were deleted from the IRS 941, the flow of paperwork between employers and the Government could be reduced by 6 million pages per quarter or 24 million pages per year.

Savings to the private sector resulting from the elimination of detailed quarterly wage data from IRS Form 941, were estimated in 1971 by the President's Advisory Council on Management Improvement to be in excess of $235,000,000 per year ($360,000,000 in 1975 dollars). With a truly annualized wage reporting system, savings to employers would even be greater, since they would be listing four fewer data items (i.e., the wages for the four quarters) than they would under an annual wage reporting system with quarterly breakdowns (P.L. 94–202).

ADVANTAGES TO THE SOCIAL SECURITY ADMINISTRATION

The SSA would no longer process detailed quarterly wage data for nearly every employee in the country. This represents the major administrative advantage of true annualization. Additionally, SSA would have four fewer data items (i.e., the wages for th four quarters) to process off of the W–2 form. Since the number of data items to be processed will be lower under a truly annualized system than under a quarterly breakdown system, SSA will require fewer employees anc less time for processing.

As a result of increased administrative simplification, cost savings to SSA would naturally be greater under a truly annualized wage reporting system. SSA has estimated annual savings of $16,000,000 by 1980 under a system of annual reporting with quarterly breakdowns (P.L. 94–202). If a truly annual system such as SSA has proposed were adopted, an additional $12,000,000 in annual savings would be realized by 1980. Thus, true annualization would result in annual savings of $28,000,000 in administrative costs to the Social Security Administration.

ADVANTAGES TO THE INTERNAL REVENUE SERVICE

The benefits to IRS from annual reporting could prove to be even greater than those to SSA through increased matching of W–2 forms with Income Tax Returns.

Since tax year 1974, the IRS has been operating a tax matching system, the Information Returns Program (IRP). Ideally, a match would be made of all W–2 forms with indi viduals' tax returns to detect fraud, overpay ment of taxes, and underpayment of taxes.

Due to the high cost of transferring W–2 wage information onto computer tapes, IRS has only been able to process a 10 percent sample to match with individual income tax returns (already processed on a 100 percent basis by IRS). However, since SSA would be computerizing 100 percent of the W–2 forms, IRS will be able to acquire complete W–2 tapes from SSA and, thus, have the capacity of matching 100 percent of W–2s with income tax returns.

It has been estimated that with 100 percent matching of all information Returns with W–2s, $630,000,000 in additional taxes owed to the Government would be recovered and $175,000,000 in additional refunds owed to individuals would be paid by the Government. This would yield a net gain of $455,-000,000 to the Government in additional tax revenue.

In addition to matching W–2s with income tax returns, other minor matches of W–3 transmittal, forms with W–2 forms, and W–3 transmittal forms with employers' quarterly aggregate data (IRS 941), will also be possible. Although such matches should assist in identifying errors, no cost estimates have been made by IRS regarding potential savings (if any) to the Government or the taxpayer.

MAJOR PROGRAM CHANGE REQUIRED TO ALLOW FOR TRUE ANNUALIZATION

A large portion of SSA's proposed legislation deals with amending the Social Security Act to incorporate revisions in the method of qualifying for quarters of social security coverage. Since the SSA will no longer be receiving detailed quarterly wage data from employers, they will no longer be able to determine eligibility based on quarters of social security coverage. Instead, quarters of coverage will be determined on the basis of annual wage data. Under the present system, an employee must earn $50 in a quarter to obtain a quarter of coverage. Under the SSA's proposed annual system, there will be a minimum yearly earning amount which will qualify employees for four quarters of coverage, a lesser figure to qualify employees for three quarters, and lesser figures in order to qualify for two and one quarters. For example, if the Congress were to set $400 as the minimum yearly earning amount for an employee to qualify for four quarters of coverage, $300 of annual earnings would qualify an employee for three quarters of coverage, and $100 would qualify an employee for one quarter of coverage. The Commission's recommendation does not comment on the dollar wages necesary to qualify employees for coverage, but merely the concept of true annualization.

IV. Recommendations

The Commission endorses the concept of true-annualization and recommends to Congress the adoption of legislation which would implement true annual wage reporting by January 1, 1978.

MOST-FAVORED-NATION STATUS FOR ROMANIA

Mr. HATFIELD. Mr. President, in early June, President Carter proposed a 1-year extension of most-favored-nation status for Romania. As my colleagues are aware, the Congress then has a period in which to decide whether or not to agree with the President's proposal. In late June—on June 27, 1977—the Senate Finance Committee held a hearing on this question. I hoped to testify, but prior commitments kept me from appearing. I submitted a statement for the hearing, and later submitted the same statement to the House subcommittee for inclusion in their hearing record.

In my statement, I discuss several aspects of this issue: "Equally favored nation" status, Romania's political independence, economic ties, and emigration. I was pleased that Congress took no action, and that MFN is extended. I think that Congress might want to consider a longer period for MFN extension when we review the request next year.

Mr. President, I ask unanimous consent that my statement regarding MFN for Romania be printed in the RECORD.

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

MOST FAVORED NATION TREATMENT FOR ROMANIA

On June 2, 1977, President Carter requested a one-year extension of most favored nation status for Romania. Congress now has sixty days in which it may disapprove MFN status through a Resolution of Disapproval. If neither House nor Senate take such action, MFN status will be extended. I urge extension of MFN treatment for Romania for another year.

"EQUALLY FAVORED NATION" STATUS

Before discussing reasons supporting extension of MFN treatment, I want to offer a suggestion, albeit somewhat facetiously. Everyone in the Congress knows that the phrase "most favored nation" is a misnomer. When MFN status is granted a country, the result is not favored treatment, but equal treatment.

Were it possible, therefore, I would suggest replacing the "most favored nation" terminology with a more descriptive phrase: "equally favored nation." I recognize that the phrase MFN has been etched for years into international law and to suggest such a change may be heresy. Although my suggestion may be facetious, my concern is serious. As we in Congress review changes in our economic relations with COMECON countries, certain segments of our population react in strenuous opposition. Part of this concern rests in the belief that the United States is seeking international accomodation at too great a cost. Such fears may not always be founded on fact, but they are deeply held. I would guess that all members of Congress have been asked, on occasion, why Congress wanted to give special treatment to Communist countries by granting MFN. The name itself, most favored nation, helps generate this concern.

As I indicated, sufficient roadblocks probably exist that would make it difficult to replace MFN with EFN. If it could be done, however, the concept would be understood more easily by our constituents, and less confusion would result.

ROMANIA'S POLITICAL INDEPENDENCE

A central reason for urging extension of MFN treatment for Romania is the unique

role it occupies among the COMECON countries. The independence shown by President Nicolae Ceausescu must be considered. In his political and economic posture, he has helped Romania pursue a policy of greater polticial and economic freedom from her fellow Warsaw Pact and COMECON allies. I understand, for example, that Romania is the only COMECON country to be a member of the IMF and the World Bank. Since 1969, five visits have provided an opportunity for President Ceausescu and American Presidents to share views. In 1969, President Nixon visited Romania, as did President Ford in 1975. President Ceausescu visited the U.S. in 1970, 1973, and 1975. I hope he and President Carter will meet soon to continue this dialogue.

I do not pretend that Romania is an ally of the United States, but Romania is a country with whom we can minimize our differences as we broaden our ties. Because of the independence shown by Romania, I believe our actions should signal continued support for increased cooperation between our two countries. A rebuff to Romania by denying MFN status could well have wide economic and political consequences.

ECONOMIC TIES

Other experts will provide the Committee with details regarding our growing economic ties with Romania. I will mention only a few. Growing from a two-way trade total valued at $8 million in 1965, bilateral trade reached $79.5 million in 1970, and had climbed to $449 million in 1976. The United States has maintained a positive trade surplus in these years, helping our balance of payments.

Because I recognize the realities of global economic interdependence, I believe it is in the best long-term economic interests of the U.S. to expand our ties with Romania. I hark back to my days as Governor of Oregon, when we organized some of the first trade missions to Japan. Now our state supplies some 60 percent of Japan's wheat imports and we maintain a healthy local trade surplus. At that time, I stressed that trade builds two types of bridges—economic and personal. The personal ties between Romanian businessmen and women and government officials and their U.S. counterparts should provide a better understanding of another people's culture. In turn, this helps erase stereotypes existing on both sides. From a strictly economic perspective, interdependence lessens the potential for serious conflicts because of the increased economic stake each has in the other's well being. From all that I have heard and read, U.S.-Romanian bilateral trade will continue to grow, and MFN treatment is a critical factor in this projected growth.

EMIGRATION

As the author of a human rights amendment defeated on the Senate floor last week because some thought it was too strict, I naturally am interested in the emigration aspect of Romania's MFN treatment. From the material I have reviewed, it appears Romania is following a policy allowing greater emigration. Romanian emigration to the U.S. and West Germany (where the greatest single number of emigrants have moved) has risen significantly. This phase of the MFN issue should continue to be monitored closely to insure emigration is possible for those wanting to leave Romania.

I am concerned about the total Romanian emigration to Israel during this calendar year, for it now is lower than last year. From January through May 1977, some 458 emigrants moved to Israel, compared to 853 in 1976. I hope this reduction does not represent any shift in attitude by the Romanian government.

This issue will be a topic for continued discussions. I have been told by the Romanian government that some 300,000 to 400,000 Jews have left Romania for Israel since World War II, and that a Romanian census in January 1977 showed only 25,000 Jews remaining in Romania. On balance, it appears Romania is meeting the spirit of Section 402 of the 1974 Trade Act, and I hope the lower number of Jews emigrating to Israel recently represents only a temporary decline.

CONCLUSION

In my opinion, it is in the best interests of our country to extend MFN treatment for Romania. The political independence of the country merits our continued support, in hope that we can encourage it. The economic ties between our countries provide a growing exchange of goods and services, helping us both. Emigration, on balance, shows an overall increase that we all hope continues. In sum, it is a record which I believe demonstrates Congressional support for extension of MFN treatment.

DR. ISADORE RABI

Mr. MOYNIHAN. Mr. President, today is a very special day in the life of one of our great universities. In New York City, today and tomorrow, Columbia University will host a grand symposium on the role of science in contemporary society, in honor of Dr. I. I. Rabi, Nobel laureate in physics and one of the most distinguished scholars of this century. Also honored by this event will be the Pupin Laboratories of Columbia—an unusual recognition for a building, to be sure, but this is no ordinary structure. In it, 14 Nobel laureates in physics have studied, taught, or conducted their research, and it has been the scene of many remarkable advances in that field of science.

Mr. President, I ask unanimous consent that there be printed in the RECORD the text of an article from today's New York Times acknowledging and lauding this memorable event.

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

SYMPOSIUM AT COLUMBIA TO PAY HOMAGE TO RABI, PUPIN LABORATORIES, AND KEY ADVANCES IN PHYSICS

(By Walter Sullivan)

Today and tomorrow Columbia University and an assemblage of top-ranking scientists will pay homage to a building, to a man and to a half century of revolutionary advances in physics.

Within the building—Pupin Laboratories at the north end of the Columbia campus—14 Nobel laureates in physics, more than a quarter of American recipients of that honor, have studied, taught or done their research.

The man, Dr. Isidore Issac Rabi, obtained his doctorate at Columbia 50 years ago in the same year the building was completed. His role in the development of physics has included research that won him a Nobel Prize and a half century of teaching, leadership and advisory roles on the national and international level.

Now in his 80th year, Dr. Rabi is still active on the Columbia campus. Like Michael Pupin, the Serbian-born physicist for whom the laboratories were named, Dr. Rabi was born in Eastern Europe (in Rymanow, now within Poland), but his family moved to Brooklyn when he was still a child. Among his many roles on the national scene has been as chairman of the Science Advisory Committee under President Dwight D. Eisenhower.

BEGINNING OF AN ERA

Soon after obtaining his doctorate in 1927, he went to Europe where the "new physics," based on Einstein's relativity theories and the quantum theory of behavior on the atomic level was taking shape. There he was exposed to such architects of that physics as Erwin Schrodinger, Arnold Sommerfeld, Niels Bohr, Wolfgang Pauli and Werner Heisenberg.

On his return to Columbia in 1929, he became a champion of the new physics and helped set the stage for the epochal developments that followed, culminating in the release of atomic energy. It was in the basement of the Pupin Laboratories that such release was first demonstrated on this side of the Atlantic.

In January 1939, Dr. Bohr, who was in the United States, received a cablegram from Europe from Lise Meitner and her nephew, Otto R. Frisch, telling of an experiment that showed that, under neutron bombardment, the uranium atom could be split, releasing vast amounts of energy.

Nine days later a group led by Dr. John R. Dunning performed a confirming experiment, using a small cyclotron in the basement of the Pupin building. They were able to split apart an atom with a total release of 200 million electron volts.

The following month, at a session of the American Physical Society in a Pupin lecture hall, Dr. Bohr and Dr. Enrico Fermi spelled out for an audience of 200 the epochal significance of these developments.

Within a week, in a laboratory on the seventh floor of that building, Dr. Leo Szilard and Dr. Walter Zinn conducted additional experiments indicating that chain reactions were possible, releasing the energy from many atoms, rather than just one.

In 1942, with Dr. Zinn and other Pupin veterans on hand, the first sustained chain reaction was achieved on a University of Chicago squash court. The atomic age was under way.

In the coming two days a symposium on the role of science in contemporary society will be conducted in honor of the Pupin Laboratories and Dr. Rabi. Participants are to include several Nobel laureates besides Dr. Rabi, including Drs. T. D. Lee, Edward M. Purcell and Julian S. Schwinger.

Also scheduled to take part will be President Carter's science adviser, Dr. Frank Press, and three advisers to former presidents: Drs. James R. Killian, Jerome B. Weisner and Lee A. DuBridge. Leading figures in European and international research efforts are to participate as well.

The university president, Dr. William J. McGill, is to announce the creation of a physics professorship in Dr. Rabi's name and confer honorary degrees on four of the scientific leaders from abroad.

Dr. Rabi won his Nobel Prize in 1944 for his discovery of the resonance method for determining the magnetic properties of the atomic nucleus. From 1952 to 1956 he was chairman of the General Advisory Committee of the Atomic Energy Commission.

SENATOR HAYAKAWA ON PANAMA TREATIES

Mr. JAVITS. Mr. President, on October 25, 1977, the New York Times published an article by our colleague Senator HAYAKAWA, entitled "After the Canal Treaties." In this article, Senator HAYAKAWA, with perspicacity, analyzes a number of neglected and often overlooked issues which bear upon the Senate's consideration of the two Panama Canal treaties which are now before the Senate Foreign Relations

Committee. I believe that Senator HAYAKAWA has performed an important service to his colleagues in drawing to our attention the issues he discusses in this article. I commend Senator HAYAKAWA's article to all those who wish to read and think comprehensively about the Panama Canal Treaties issues.

Mr. President, I ask unanimous consent that the text of Senator HAYAKAWA's article be printed in the RECORD at the conclusion of my remarks.

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

AFTER THE CANAL TREATIES

(By S. I. HAYAKAWA)

WASHINGTON.—The Panamanians, in their plebiscite Sunday, voted for the Panama Canal treaties. The decision is now up to our Senate, which presumably will not vote on the issue until 1978. Unfortunately, the treaties have become a highly emotional issue. We know the Canal's history, we have begun to scrutinize the treaties' positive and negative elements, but we haven't given much thought to the effects of an affirmative or negative Senate decision.

The news media, to their credit, have presented both sides of the issue. Nevertheless, public debate reveals two misconceptions.

The first is the widely held view that the Senate has only the choice of rejection or consenting to the treaties. Actually, it can modify a treaty; it can give its consent with reservations; or it can interpret a treaty.

In the first two cases, the treaties would probably have to be renegotiated—for another 14 years? A unilateral interpretation by the Senate will have to be communicated to the Government of Panama. But since this need not interfere with the treaties' ratification, I may have some proposals to make in this regard once the treaties reach the Senate floor.

The second, more serious misconception is that the decision to ratify or to reject the treaties will settle the matter for once and all. Actually, it is safe to predict that regardless of whether the treaties are ratified or not, our problems will have only begun. Assuming ratification, it is necessary to point out that there is a long history of international agreements that only resulted in new disputes.

The detailed and complex provisions of the first treaty, which would govern the gradual transfer of administration to the Republic of Panama, are bound to produce all kinds of controversies. It is also by no means certain that the Government of Brig. Gen. Omar Torrijos Herrera will consider the treaties final; it may very well come forth with new demands in a few years.

One also can reasonably assume that the Torrijos Government will not be around for another 23 years. Regardless of the nature of successor governments, it is likely that they will ask for changes. As former Secretary of State Dean Rusk has pointed out, a future democratic Government of Panama would probably be most difficult to deal with because of susceptibility to nationalistic Panamanian demands.

Finally, it is all too clear that ratification will be interpreted in many quarters as "America on the run." We therefore ought to be prepared for new pressures to abandon Guantanamo, Cuba, and to evacuate Clark Air Force Base and Subic Bay in the Philippines.

A refusal by the Senate to consent to ratification is bound to have equally detrimental consequences. The threat of sabotage and to guerrilla warfare in the Canal Zone is frequently mentioned and the example of Vietnam is brought up in this connection. But political and geographic conditions in Panama are so different that guerrilla action is extremely unlikely. However, the possibility of terrorism cannot be ruled out. Consequently, if the Senate should decide for rejection, it would seem wise to authorize simultaneously a substantial increase in security and our military presence in the Canal Zone.

An important byproduct of such action would be the warning to the rest of the world that the United States not only is unwilling to give up the canal, but also is prepared to defend its rights regardless of consequences.

However, no Latin-American country nor third-world countries will regard a negative vote by the Senate as final. Continuous and increasing international pressures must be therefore expected—possibly accompanied by terrorist acts within the United States. The recent history of the anti-war movement in this country may serve as a usfeul reminder.

We have heard plenty from the geriatric set about how we must defend the canal at all costs, but has anyone surveyed young men under 30 to see how they feel about such a fight?

Public debate has focused so far only on the text of the treaties. It is time now to take a close look at the consequences of the Senate's impending decision. Regardless of the outcome of the vote, there are serious problems and great risks ahead. It is our political leaders' task to alert the American people and to make it clear that, contrary to their expectations, the Senate's verdict will not dispose of the issue.

ASIAN BLOODBATH

Mr. GARN. Mr. President, although it is too small in size, economic potential and strategic importance to have any great influence in world's politics, a developing country in Southeast Asia continues to make the headlines. The country is Communist-ruled Cambodia. Its leaders, Chief of State Khieu Samphan, Party Chief and Prime Minister Pol Pot, and Deputy Prime Minister Ieng Sary, have gained international notoriety for their unprecedented crime of genocide. It has been established that they have executed at least 1 million Cambodians.

In this forum, many of my colleagues have stirred public awareness of the massacre, hoping that international scrutiny would persuade the Cambodian dictators to show restraint.

However, as matters now stand, this public appeal has had no impact; the bloodbath continues. Cambodia's leaders continue to defy international pressures and more than that, Communist countries like North Korea have openly displayed support for the mass killings.

Birds of a feather do flock together. Cambodia's Khieu Samphan just sent a message of congratulations to Uganda's self-appointed "President for Life," Idi Amin, wishing him—as he put it—"the best of health, of long life and success in your lofty mission."

Everyone in the world knows that Idi Amin's so-called lofty mission includes the systematic liquidation of thousands of Ugandans. Shocked by Amin's brutality, the United States closed its embassy in Kampala in 1973.

We have not yet broken diplomatic relations, but a movement is afoot in Congress to urge severance of all U.S. commercial ties with Uganda.

I think it is time for this to be done. I also think it is time for us to challenge any suggested rapprochement with Communist countries in Asia.

Cambodia's party chief and premier, Pol Pot, recently made a state visit to North Korea and China. Before embarking on the trip, he delivered a revealing speech on the 17th anniversary of the founding of the Cambodian Communist Party. In his speech, he admitted that the massacre was not an impromptu action, and that in 1960, the Party Central Committee decided to eliminate "the feudal landowner and reactionary compradore system from Cambodian society" after taking power. He said:

We completely fulfilled this task on 17 April 1975.

On that day, the massacre began throughout Cambodia.

While in Pyongyang, Pol Pot was awarded the "title of hero of the Democratic People's Republic of Korea." In other words, the butcher of 1 million Cambodians was given North Korea's highest decoration.

What we in this body have said about Cambodia is not yet enough. More national and international attention must be focused on this Communist-ruled nation. George Gedda wrote a moving story on "Cambodia's Dark Night," which was printed in the Asia Mail and the Wall Street Journal carried a detailed report on the bloodbath going on in Cambodia. I commend these two articles to the attention of my colleagues and ask unanimous consent that they be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 19, 1977]

ASIAN BLOOD BATH—CAMBODIA'S COMMUNIST REGIME BEGINS TO PURGE ITS OWN RANKS WHILE CONTINUING A CRACK-DOWN

(By Barry Kramer)

SURIN, THAILAND.—Since coming to power 29 months ago, the Cambodian Communists have gained a world-wide reputation for the brutal treatment given their non-Communist countrymen. Now the Khmer Rouge—literally the Red Cambodians—are carrying their campaign of terror an extra step. They are killing one another.

Cambodian refugees, including several high-ranking Khmer Rouge defectors, interviewed at a camp here on the Thai side of Thailand-Cambodia border say that mass purges have been conducted in Northwest Cambodia in recent months against hundreds of Communist soldiers and cadre. The purge victims' fate apparently has been the firing squad.

Nor has the bloodletting stopped. According to two of the Communist defectors here, the victors in the party purge, the so-called "new" Khmer Rouge, since have redoubled efforts to seek out and execute Cambodians who served in the army or government of the deposed Lon Nol regime. Other targets are teachers, Buddhist monks and educated or wealthy Cambodians, the defectors say.

It's difficult to judge how accurate these refugee accounts are. The Communist defectors, for instance, no doubt have ample reason to discredit their former leaders. Yet such reports are the only source of information available about a country that has shut itself off from the outside world ever since the fall of its capital, Phnom Penh, to Khmer Rouge forces on April 17, 1975.

HIGH DEATH TOLL

Moreover, for months other refugees have been telling gruesome tales of forced evacuations of Cambodian cities, mass executions and widespread hunger and disease. Estimates based on the reports of those who have interviewed these refugees place the number of Cambodians who have died violently since the Communist takeover at between several hundred thousand and over one million.

Cambodia's new leaders don't deny that they are "eliminating" what they call "reactionaries." But the ruling Angka Leou, or Organization on High, which only recently acknowledged that it is synonymous with the Cambodian Communist Party, has contended that one million Cambodians died not at their hands, but in U.S. bombing raids prior to the Communist victory. And Pol Pot, who as premier and secretary-general of the Cambodian Communist Party has emerged as the country's strongman, said in a recent speech that "only the smallest possible number" of those who oppose the revolution are being killed.

However, even Pol Pot puts the remaining number of "enemies of democratic Cambodia" at 1 percent to 2 percent of the country's population, which he claims is currently eight million. That means between 80,000 and 160,000 Cambodians are still in danger of losing their lives.

AN IRONIC TURN

Whatever the magnitude of this bloodbath, it took an ironic turn earlier this year when the Khmer Rouge began to purge their own ranks. Military intelligence officials in Thailand believe the purge followed an attempted coup d'etat in Phnom Penh. Western diplomats, meanwhile, think the Cambodian Communists are trying to cleanse the Party of pro-Vietnamese elements now that the Cambodians are at odds with their Hanoi allies. Still others say Khmer Rouge leaders want to consolidate their own power by eliminating potential rivals.

In any case, eyewitness reports suggest, Communists as well as non-Communists aren't immune from harm under the new regime.

Hui Pan is a former bicycle repairman who rose through the Communist ranks to become a Khmer Rouge village chief at Dam Dek, a town of 3,700 in Siem Reap province. Interviewed at the Surin refugee camp, Mr. Pan says the purge began last February when all 50 or so Siem Reap province officials were suddenly ordered to report to Phnom Penh. Two weeks later, the ruling Angka Leou sent back word that all of these officials had been removed because they were "CIA agents" who had "killed many people so that the people wouldn't like Angka."

At first, says the dour-faced, 31-year-old Mr. Pan, "the people liked the new Khmer Rouge more than the old Khmer Rouge because the new Khmer Rouge distributed food that had been locked up by the old Khmer Rouge."

HARSH REPLACEMENTS

But the new officials sent to run Siem Reap soon showed they were more harsh than their predecessors, Mr. Pan says. "Under the old Khmer Rouge, perhaps 30 percent of the Lon Nol soldiers were killed. The new Khmer Rouge killed all the rest."

That wasn't all. Sometime in April, Mr. Pan continues, the new province officials began telling each village leader that "the chief wants to see you." The leaders went—and never returned. "In this way, all the old village chiefs (in Siem Reap) were betrayed," Mr. Pan says. He, too, was arrested in April and led away with his hands tied behind his back. However, Mr. Pan was able to cut his bonds and flee, reaching Thailand in late June.

Hui Pan's story is corroborated by Chuk Han, a 21-year-old Khmer Rouge artillery unit commander who claims that between April and July, when he himself fled the country, about 800 Khmer Rouge officers and men were "caught" in Oddar Meanchey province along the Thai border.

"Simple soldiers were led away with their hands tied behind their backs," Mr. Han recalls. "Officers weren't tied up until they reached Siem Reap."

Why were they arrested? "I don't know the big story but they told us the old Khmer Rouge wanted to make a 'new revolution,'" Mr. Han says. After the new Khmer Rouge were in control, he adds, "they told us the people have to work harder than ever before to find all the enemies of Cambodia. They began to catch all the old Lon Nol people and move them away."

Khem Chnommali, a 27-year-old former inspector in Lon Nol's national police who is now at Surin claims to have seen a mass grave containing the bodies of 70 "old Khmer Rouge" executed near the village of Sray * * * in Oddar Meanchey province. "We were told that the old Khmer Rouge wanted a coup d'etat, like the Soviet Union," he says.

Indeed, the new Cambodian leadership has been hostile toward the Soviet Union, perhaps because of Soviet influence in Vietnam and Laos. Although the Vietnamese Communists once aided the Khmer Rouge and used Cambodia as a sanctuary during the Vietnam war, the Cambodians historically have distrusted their eastern neighbors.

Today, in fact, this mutual dislike is said to be behind a series of recent clashes along the Cambodian-Vietnamese border. At one point, diplomatic sources inside Vietnam report, Cambodian troops besieged the Vietnamese border town of Chau Doc; in retaliation, the Vietnamese struck villages miles inside Cambodian territory.

Cambodia, whose major Communist ally is China, also has mounted bloody raids on border villages inside Thailand and has fought with the Laotians as well. Observers believe some of these military ventures represent an attempt by a still-insecure Cambodian regime to show its stronger neighbors that it can't be pushed around.

But the biggest reason for the border clashes seems to be Cambodia's desire to create a no-man's land along its borders, making it difficult for Cambodians to leave the country. The policy has worked. The flow of refugees, which has brought 15,000 Cambodians to Thailand and another 60,000 to Vietnam, has slowed to a trickle in the past few months. Escaping Cambodians not only must contend with Khmer Rouge patrols but also with mine fields placed along the Cambodian border. And in Thailand, armed villagers fearful of the Khmer Rouge, often shoot the escapees as spies.

[From the Asia Mail, Aug. 1977]

ONE MILLION DEAD—CAMBODIA'S DARK NIGHT

(By George Gedda)

Last January, near the village of Preah Neth Preah in Cambodia, a girl of about 20 years old was found along a jungle trail buried up to her neck. She was alive—her head and mouth were moving, but no words came out. She had been seized two days earlier by Khmer Rouge soldiers for reading an English language text book. Fearful of suffering a similar fate, villagers offered no help to the girl. Later she died.

That account was told to Anthony Paul of Reader's Digest magazine by a Cambodian refugee who escaped to Thailand. His particular story is impossible to confirm and might be dismissed as fiction. But the 100 or so Cambodians who manage to escape each month are relating similar tales about life—and death—under Khmer Rouge rule. Thai authorities and western newsmen and diplomats are struck by the volume and consistency of these accounts. Jean Lacouture, an experienced newsman who was a harsh critic of American involvement in Indochina, says that nothing less than "the bloodiest revolution in history is now taking place" in Cambodia.

Estimates vary about the number of Cambodians who have been killed outright or died of famine or disease since the Khmer Rouge marched triumphantly into Phnom Penh in April 1975. But it is quite clear that the total exceeds the combined number of Americans who have died in the four wars the United States has fought in this century. The figure exceeds by 1,000-fold or more the number of victims of the much-publicized civil strife that has plagued Northern Ireland for the past eight years. U.S. intelligence sources put the death toll figure for Cambodia at somewhere between 600,000 and 1.5 million. In March, Ian Ward of the London Daily Telegraph estimated the total at about 2 million.

Last August, when the Khmer Rouge had been in power for 16 months, Cambodian chief of state Khieu Samphan was questioned about the death toll in an interview with an Italian magazine while he was attending the conference of non-aligned nations in Sri Lanka. He gave the figure of one million, dismissing the victims as "war criminals."

Those who try to flee the terror-stricken confinement imposed by the Khmer Rouge do so at grave personal risk. The area near the Thai border is heavily guarded with patrols on constant lookout for escapees. Most never reach their destination. Abdul Hadji Mohammed, a target because he was a Muslim, described his 10-night trek to safety in Thailand. "All along the way, the jungle smelled of rotting corpses; we could not get away from that smell."

There are now some 13,000 Cambodian refugees living in Thailand under poor conditions. About 6,000 have arrived in the United States but unemployment and adjustment are big problems to these displaced persons. The July 15 approval by President Jimmy Carter to admit 15,000 more Indochinese refugees may allow some more Cambodians to reach America.

Regimentation of life in Cambodia has no parallel anywhere. The scope of permissible behavior is extraordinarily narrow. Peasant virtues are exalted and most others are vilified. Workers toil the fields seven days a week from 6 a.m. until 5 p.m. with a two-hour break for lunch, much more time than necessary to consume the scant rations provided. In some cases, work continues at night if moonlight is adequate.

Even devotion to duty does not ensure that a Cambodian will be treated with tolerance. A Reader's Digest account last February by John Barron and Anthony Paul said that in October 1975, monitors abroad listened as the communist commander in Sisiphon received radio orders to prepare for the extermination, after the harvest, of all former government soldiers and civil servants, regardless of rank, and their families. Subsequently, teachers, village chiefs and students were to be included in the toll.

There is no white collar class to speak of which might be spared the deprivations of the peasant existence. Cities are regarded as evil. Barron said recently that about 4 million persons—about two-thirds of Cambodia's 1975 population—were driven from the cities and larger towns soon after the revolution. Patients in hospitals and convalescent homes were not excepted. Books by the hundreds of thousands were burned along with records, archives, currency, personal papers—literally any written or printed matter.

The wrath of the Cambodian rulers is easily aroused. There are rules forbidding music, dance, promiscuity, gambling, drinking, polygamy, astrology and western medicines. There is no right to speak, to assemble, to travel, to choose one's work or place of residence. In some cases, husbands and wives are prohibited from quarreling or from disciplining their children. Children, in turn, are encouraged to report to authorities any

sign of counter-revolutionary behavior by their parents. Often the penalty for violators of any of these rules is summary execution or execution after one or more warnings.

Since the revolution, shops, schools and monasteries have been closed. There is no postal service and all money has been removed from circulation. There are no mass circulation newspapers, only a few journals which are distributed to high government officials. Loudspeakers are the most common method the government uses to communicate with the people. Education is virtually non-existent for children after they learn the rudiments of reading and writing.

The regime operates almost in total secrecy. Although there is a Cambodian communist party, its existence is not publicly acknowledged. Nor has the regime ever referred to itself as "communist" or "Marxist-Leninist." It simply calls itself "the organization."

Self-reliance is the government's guiding principal. Last March, Cambodia rejected a $3.3 million interest-free loan offered by the oil export cartel as part of a program to assist non-oil producing developing countries.

Of the 150 or so independent countries in the world, only eight have diplomatic missions in Phnom Penh. Among the excluded countries is the Soviet Union, which still has not been forgiven by the Khmer Rouge for maintaining relations with the U.S.-backed Lon Nol government.

In contrast to Cambodia, neighboring Vietnam, which toppled the Saigon regime just two weeks after the Khmer Rouge triumph, has been actively expanding ties with western countries, including the United States. And despite a curfew, establishment of neighborhood spy systems, travel restrictions, economic hardships and an endless cycle of physical labor and indoctrination for the 100,000 Vietnamese in "re-education centers," all signs indicate the process of communizing South Vietnam has been far more humane than in Cambodia.

Why the difference? Barron and Paul of Reader's Digest suggest that the life and personality of Khieu Samphan, the chief of state, may help explain. As a student in Cambodia and France, Khieu was completely unaggressive and tormented constantly by classmates. This may have contributed to development of a profound hostility which continues to dominate his personality.

But perhaps a more decisive element in shaping Khmer Rouge attitudes was the American bombing raids over Cambodia which persisted from 1969 to 1973 until they were halted under pressure from Congress.

There is little question that the hardships and deprivation caused by the half million tons of bombs dropped during that period polarized sentiment in Cambodia, forcing people to make a choice, and also hardened the attitude of the communists.

Vietnam also was the target of U.S. bombers for many years before 1975 but the Hanoi government had been in power for 20 years and undoubtedly had a more confident leadership.

Says Harvard's David P. Chandler, "We bombed Cambodia without knowing why, without taking note of the people we destroyed. We might have thought things through. Instead, we killed thousands of people we had never met. And at the last moment, we walked away from our friends."

Not surprisingly, Richard M. Nixon, under whose administration the bombing operations were carried out, has a different insight. In one of his interviews with David Frost, Nixon said he had no regrets about his Cambodia policy because it temporarily spared the country from "one of the most cruel, vicious communist dictatorships in the world."

The fact that the United States helped postpone the communist triumph was "worth something," he said.

GROWTH OF POLITICAL ACTION COMMITTEES

Mr. CANNON. Mr. President, I would like to bring to the attention of my colleagues a recent summary of the nonparty-related political action committees registered with the Federal Election Commission. From December 31, 1974, to October 14, 1977, the number of nonparty PAC's grew from 608 to 1,261, an increase of over 100 percent.

It is interesting to note that the number of corporate PAC's increased during this period from 89 to 508, an increase of 470 percent, and trade associations and other membership organizations increased from 318 to 531 or 66 percent, while labor-related PAC's showed an increase from 201 to 222 or only 10 percent.

I ask unanimous consent that a summary of non-party-related political action committees prepared by the Federal Election Commission be printed in the RECORD.

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

SUMMARY OF NONPARTY RELATED PAC REGISTRATIONS AND TERMINATIONS

	Existing Dec. 31, 1974	Registering Jan. 1–Nov. 24, 1975	Terminating Jan. 1–Nov. 24, 1975	Existing Nov. 24, 1975 [1]	Registering Nov. 25–May 10, 1976	Terminating Nov. 25–May 10, 1976	Existing May 10, 1976 [2]	Registering May 11–Dec. 31, 1976	Terminating May 11–Dec. 31, 1976	Existing Dec. 31, 1976 [3]	Registering Jan. 1–Oct. 14, 1977	Terminating Jan. 1–Oct. 14, 1977	Existing Oct. 14, 1977
Corporate	89	50	0	139	158	3	294	153	14	433	90	15	508
Labor	201	29	4	226	34	14	246	33	55	224	19	21	222
Trade associations, membership organizations, cooperatives, corporations w/out capital stock, other	318	45	6	357	102	7	452	110	73	489	79	37	531
Category total	608	124	10	722	294	24	992	296	142	1,146	188	73	1,261

* All committees are classified as to their apparent connected organization. The trade, membership category may include incorporated trade associations or membership organizations, corporations without capital stock, cooperatives, and other membership organizations.

[1] Date advisory opinion 1975-23, Sun-Oil, issued.
[2] 1976 FECA amendments effective May 11, 1976.
[3] Year-end 1976.

EXCESS LAND

Mr. GARN. Mr. President, the Western coalition met with the Secretaries of Interior and Agriculture to discuss proposed regulations requiring divestiture of so-called excess lands under the 1902 reclamation law. The proposed regulations have evoked intense controversy in the West, and with good reason. I understand that a portion of the regulations are being issued pursuant to the order of a Federal court, but in my view the regulations as issued go far beyond what the court required, and cause unnecessary uncertainty and disruption.

Just as a quick example, Mr. President, we have a sheep rancher in Utah who lives on his ranch near Tooele, Utah. In the winter, he grazes his herd on the semidesert land near Tooele. In the summer, however, he drives the sheep to summer pasture in Idaho, where part of his land is watered by Bureau of Reclamation water. The regulations as proposed require the beneficiary of the water to live near the watered land. Consequently, this rancher would have to sell his land near Tooele, where he and his family have lived for generations, and move to Idaho.

Mr. President, Dr. Jay Andersen of the Economics Research Center of Utah State University has done a fine analysis of the inequities involved in the proposed excess lands regulations. I ask unanimous consent that Dr. Andersen's analysis be printed in the RECORD.

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

[Study Paper No. 77–10, October 1977]

THE INEFFICIENCY AND INEQUITY OF THE PROPOSED RULES AND REGULATIONS ON ACREAGE LIMITATION ON BUREAU OF RECLAMATION [1]

(By Jay C. Andersen [2])

Yes, Mr. and Mrs. American and Virginia, there is a Santa Claus. He is the big guy. Not the one with reindeer and a sleigh. He is the big guy on the tractor. Over the years, it's this man who has been largely responsible for the standard of living you have attained.

Consider various countries in the world. Those where the standard of living is high are where the farm sector has been sufficiently productive to release most of the manpower to the industrial and service sectors. Developing countries that include most of the people of the world are bound down to a majority of productive workers in the country producing the basic food and fiber for the rest of the country.

In the United States, the statistics are most impressive in that we have moved from 95 percent rural population 200 years ago to where we have one farmer feeding 57 at the present time. (Average annual farm employment was 4,375,900 [3] in 1976, or just about 2 percent of our 200 million plus people.) This change is what has made the United States and a few other countries so affluent and able to share with the rest of the world. Table 1 indicates the change in total and farm population for the U.S. since 1910.

[1] Presented at American Farm Bureau Meeting, Denver, Colorado, October 18, 1977.

[2] Professor and Head, Department of Economics, Utah State University, Logan, Utah 84322.

[3] U.S. Department of Agriculture, FARM LABOR, August 25, 1977, Washington, D.C.

TABLE 1.—POPULATION: TOTAL AND FARM, UNITED STATES, 1910-75

Year	Total population (thousands)	Farm population	
		Number (thousands)	Percentage of total
1910	91,885	32,077	34.9
1915	100,191	32,440	32.4
1920	106,089	31,974	30.1
1925	115,402	31,190	27.0
1930	122,775	30,529	24.9
1935	127,057	32,161	25.3
1940	131,820	30,547	23.2
1945	139,583	24,420	17.5
1950	151,132	23,048	15.3
1955	164,607	19,078	11.6
1960	180,007	15,635	8.7
1965	193,709	12,363	6.4
1970	204,335	9,712	4.8
1975	213,135	8,864	4.2

Note: Beginning 1960, includes Alaska and Hawaii. Total population figures include the Armed Forces overseas.

Source: U.S. Department of Agriculture, Ag Statistics, 1962 and 1976.

See Figure 1 for the trend since 1930. (Figures not printed in the RECORD.) U.S. farm population is less than one-third of 1940. Note that farm employment has declined in similar fashion as shown in Table 2.

What has done it? What has made the difference? I would enumerate the following as having made our agricultural system really work:

1. A vast and fertile frontier. Unquestionably the availability of new land and other resources has contributed mightily. We have all been benefited to live in a place where the natural resources have been abundant.

2. Technology. As resources have been released from the farm, great minds have been able to invent and build equipment. Just last Saturday I visited a farm shop where a retired farmer was tinkering with an old, early 1900's vintage one-cylinder gas engine. He had quite a collection of these antiques. He said, "You know, these gadgets are what set it all off. They got us started to where we could really go at this rat race." Machines have replaced workers on the farm.

3. Incentives. The reward system based on a competitive market has been the driving force to make the resources and technology pay off. The machines have been adopted out of promise of a payoff. Even today there are countries with the know-how and resources, but the change does not occur because of a lack of incentives to those who could do it all.

TABLE 2.—FARM EMPLOYMENT: AVERAGE NUMBER OF PERSONS EMPLOYED ON FARMS, 1929-76

Year	Total farm employment		
	Average number of persons (thousands)	Index	
		1910-14=100	1967=100
1929	12,763.0	94	261
1930	12,497.0	92	256
1935	12,733.0	94	261
1940	10,979.0	81	225
1945	10,000.0	74	206
1950	9,926.0	73	203
1955	8,381.0	62	172
1960	7,057.0	52	144
1965	5,610.0	41	114
1970	4,522.6	33	92
1975	4,357.0	32	89
1976	4,375.0	32	89

Source: U.S. Department of Agriculture, Ag Statistics, 1972 and 1976.

The system has been so effective that the government has sought to modify the market system by diverting commodities to attempt to support prices. Thus our friend and benefactor, the farmer, has worked so effectively that he has hurt himself. The American consumer has enjoyed the benefits. Over the years the proportion of consumers' income devoted to food purchases has fallen from a majority of income to under 20 percent. Interestingly enough, most of the changes in the farm sector have occurred since the frontier was closed. Acres in farm crops has not increased greatly in this century when the great lift has been given to consumers. Cropland used for crops increased by less than 3 percent from 1910 to 1969.[1] Yet production has increased markedly. We could also mention the boost that exports of agricultural commodities has given to the country's balance of payments problems.

What has been the impetus for fewer and larger farms, and for fewer farmers?

It mostly all relates to the economics of size. Every study of farm size of which I am aware, indicates declining average cost per unit over a major portion of the usual sizes. Studies of the U.S. and from many states indicate that the pattern is quite uniform. The next two figures are just illustrations of these data. Figure 2 is a U.S. average and Figure 3 pertains to growing potatoes in Idaho. Because of the economies of size possible in some enterprises, a farm half as large as another more efficient one may have machinery and production costs as much as a third as large in total and much higher on a per unit basis.

Now, the question is, what will we do with this farm production machine? The great private enterprise system has been so effective. Will we encumber it with new restrictions?

As an economist, it is clear to me that when restrictions or impediments are placed in the way of the system, then losses in efficiency and an impairment in the productive capacity occur. I would contend that the functions of government in regulating the workings of the system can be limited to preventing one person from harming another. This should be broadly interpreted. Harm can be in various capacities. One is, of coruse, a matter of personal violence. Our police forces are called on to regulate how we deal with each other in matters of honesty and safety. But the matter of economic harm is also important. I would argue that it is a legitimate function of government to prevent harm to consumers from monopolistic practices and to prevent incremental social costs from pollution (or other similar problems) which exceed the incremental value of production. Too, there are many activities such as national defense and certain large undertakings that cannot be captured in private ventures, which are also legitimate government functions and that do not interfere with the system of private enterprise. Thus, as a matter of personal preference and as a professional economist, I would assert that the appropriate role of government has limitations short of enforcing an outmoded acreage limitation and short of other encroachments where rights are endangered. Regulations, standards, quotas, and limits are inferior to incentive systems and market forces where there are options. In general, government constraints inhibit the production and marketing system from producing most efficiently to meet the demands of society.

Contrary to popular opinion, controls and limits may confer special privileges on an elite group, rather than the reverse. It would appear that the 160-acre proposal would lead to special privileges to some and taking of values from certain groups. This will be explained further.

Even if a purpose of limiting farm size is accepted, acreage is a very poor indicator of size. A 160 acre chicken ranch is immensely different from a 160-acre grain farm. Climate also makes a big difference. Even though in 1902 the 160- or 320-acre size was a reasonable maximum for most any kind of enterprise, it is not generally so now.

The definition in the proposed rules provides for exempt land if a general pattern of family size farms has developed. It seems to me that it is a rational argument that can stand up in testimony and cross-examination that the "family farm pattern" that has developed in many areas is for farms of larger size than is allowed under acreage limitation restrictions. Leasing is a large factor in many areas in combining ownership units to efficient size.

Food costs would be affected by a program that forces farm operators to operate at higher costs. Surely the consumer, as we pointed out earlier, has benefited from the system we have. To roll back to a more primitive time will put the pinch on consumers.

Efficient water use practices as in some of the new technologies are simply not feasible for small farms. They are adapted to full sections and even larger size operations. Therefore, loss in water use efficiency will occur if the restriction on acres is applied.

Some farm equipment is simply too expensive for small irrigated farms. Cotton pickers and combines are examples. Some possibility exists for custom work or sharing, but there is a problem in timeliness and in finding someone willing to own these machines for custom operation. Most small operators can't finance them. Banks will be unwilling to loan the amounts necessary for farm operations, as well as machinery investment, especially to prospective new small farm operators.

Owners of land of acreage limitation size and less have discovered it to be much to their advantage to lease their land to other operators who are usually also land owners who can operate an economic unit. Forcing compliance with the acreage limitation would reduce income of owners of small tracts by eliminating the possibility of leasing to efficient operators who can pay substantial lease payments because of their abilities to operate added units of land at less cost than the first small acreage, thus leaving substantial amounts that can be paid for leased land.

Inputs to agricultural production are lumpy. As one example in an area we have considered briefly, a $50,000 cotton picker can handle 250 acres of cotton. The operator must rotate this cotton ground with other crops that require a $50,000 combine. The grain acreage for rotation requirements and for efficient use of the combine may require use of a two picker (500 acre) cotton enterprise to balance out. Thus, the efficient size of enterprise does not fit the acreage limitation criteria.

Imposition of the acreage limitation would place operators using USBR water at a substantial disadvantage as compared to other farmers and may drive costs of production up to where they cannot remain in business. This would certainly defeat any purpose of "people on the land."

The technology of farming is very sophisticated. Operating costs (annual out-of-pocket expenses) are very high. Potential small operators neither have the available capital, nor would lending institutions provide it, for making a crop. Particularly in some parts of one District we looked at, the uncertainty of water supply is so great that small operators with limited capital could not bear the costs of even one bad year. Great capital reserves are necessary to operate in these circumstances.

In this same project, because of the poor

[1] U.S. Department of Agriculture, AG STATISTICS, 1976. USGPO, 1976.

quality and uncertain quantity of water (which the Bureau supplies), the crops are limited to tolerant varieties as contrasted with less salt and drought tolerant intensive crops. In turn, this leads to economic forces that make large-size farming units viable and small-size operating units unprofitable. Thus, the government-supplied inputs contribute substantially to the situation, which the "acreage limitation" would purport to correct. To do so would seem highly inconsistent and myopic.

Because of the economic relationships and without interference from the government, operators have built up equity in land, machinery, and even personal know-how (which is surely a capital good) to operate fairly large acreages. To reverse the policy will deprive these operators of their source of income, which they have wrested from an often hostile environment. In some projects this includes poor quality of water of uncertain availability.

Government requlations assume rational, law-abiding, prudent citizenry. For example, speed limits are not set lower than a majority of drivers travel. Farm operators, too, act very rationally. They will seek appropriate and efficient levels of operation. Interference with this self-interest impairs the capabilities of the food and fiber sector to product the nation's needs.

I see no difference between this acreage limitation proposition and the confiscation of property rights that occurs in land reforms as socialist regimes take over in Latin America or other places in the world. It is inequitable, inefficient, and not worthy of a country like the United States.

Some inferences have been made by the Secretary of Interior that all lands receiving water that flows from public lands would be subject to the rules. This would create a problem of grand proportion throughout the West. Essentially all of the surface water that is diverted is mixed with water flowing from public lands.

The government has given implicit consent to the enlarging size of farms on Bureau projects. People have made substantial investments based on the observed behavior of government. To arbitrarily begin to redistribute the wealth and income created over years is unfair to operators who have tried to make a living. The nature of farming makes large equipment and larger sizes pay off better as shown in the previous cost curves.

There may be some who would argue that farm operators who receive Bureau of Reclamation project water have received a windfall of cheap water; and thus, they have received an unwarranted benefit that should somehow be given back to all the people. In many projects the idea of cheap water is unwarranted since project water is difficult to sell. These projects were developed based on the repayment capacity or financial ability to repay. It is not to say that a private citizen would or could develop the water. Furthermore, in the aggregate, if production has increased it can be shown that consumers have been the primary beneficiaries, not farmers. Thus, we would not necessarily recommend now or in the past that all reclamation projects be developed. Probably much more careful analysis is appropriate for the payoff to the irrigation purpose. But let's assume away these problems and accept a presumption that original recipients of project water may have received some windfall gain. As always happens, the value of the land to which this project water is available immediately takes on an inflated value. Thus, the original owners may have received a windfall in their wealth position.

I have no data on the proportion of project farms still held by original owners who held land at the time of development, but would assert that overall the proportion is very small. Therefore, it is too late to do anything to reclaim for society any of these windfalls. By actions or lack of actions the government has given consent to combinations of farms by purchase and lease. Those who now operate the land have paid a full price for water in the form of capitalized values of land for purchase or lease.

Enforcement of the 160 acre limit would serve the same purpose as a tax on the land because of the loss of efficiency due to scale economies as shown earlier. Current operators would be penalized unfairly by this land and income and wealth redistribution scheme. The confiscation of lands by forced sale at depressed prices is even more serious than the cost increase imposed.

In a Montana study, financed in part by the U.S. Bureau of Reclamation, it is concluded:

"The 160 acre farms in the Helena Valley and Milk River Valley and the 320 acre farm in the East Bench Unit all return less than $9,000 to labor, management, and real estate. These farms are thus unable to support a family even with no real estate debt load. The 160 acre farm in the Lower Yellowstone Valley and Huntley Project, however, might be able to support a small family if there were no real estate debt payments to make or interest charged on land investment. The average size farms in each area are much more financially sound and able to support a family than the smaller farms.

"Based on the results of this study, it is recommended that the Reclamation Law be modified to allow irrigated farms on federal irrigation projects to be of sufficient size so that they are economically sound, self-sustaining units. As evidenced by this study, sufficient size varies from area to area. A simple blanket increase in the acreage limitation, then would not be desirable. If any acreage restriction at all must be imposed, it should be determined separately for each project, or category of projects, and be subject to periodic review. The problem is not a simple one. Enforcement of a simple policy expressed in terms of physical acres can only result in economic confusion for both individual farm families and the Montana economy which depends so heavily on agriculture."[5]

In summary, perhaps an effective argument can be found in considering the Acreage Limitations Proposed Rules themselves as published in the Federal Register on August 25, 1977. On page 43046 under "definitions of exempt land," it is stated, "Exemption may be based on determination by the Secretary, upon payout of construction charges, that a general pattern of family-size ownership has developed." There is strong evidence that the family-size ownership has changed much since the rule was made.

Two tests of a policy or change in policy are appropriate. Efficiency and equity should be required for implementation of policies, programs, and rules. The weight of evidence is that the proposed rules on acreage limitation are neither efficient nor equitable.

I would join with the Public Land Law Review Commission in urging an abandonment of this outmoded and harmful rule. Let's not cripple the goose that lays the golden egg. If society wants to effect an income support program for the underprivileged, then let us come up with a more useful, equitable, and efficient way of doing so.

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[5] Luft, Leroy D. and Joseph Guenthner. 1977. "An Economic Analysis of 160 acre limitations on Irrigated Farms in Montana." Montana Ag Exp Station Research Report 104, Montana State University, Bozeman.

THE FAMILIES WITH ALCOHOLISM ASSISTANCE ACT

Mr. WILLIAMS. Mr. President, I am happy to join with the capable chairman of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATHAWAY) and the minority member of the subcommittee (Mr. HATCH) in sponsoring the Families with Alcoholism Assistance Act of 1977.

In 1970 I coauthored the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, creating the National Institute on Alcohol Abuse and Alcoholism as the focal point for continuing Federal leadership and commitment to this long neglected area.

While much remains to be done, progress has been made since the creation of the Institute. There has been growing public recognition of alcohol as the major drug of abuse. The institute has stimulated widespread awareness which has led to the development of many prevention and treatment programs at the grassroots level.

Above all, it has shown that alcoholism is treatable, that the total destruction of the individual need not be the inevitable result of alcoholism. Yes, it is now acknowledged that the alcoholic can be successfully treated and that death or insanity need not be the inevitable end for such persons.

But, Mr. President, there is another, larger, population which also suffers from the emotional, physical, and social disintegration caused by alcoholism. And this population is largely ignored. I speak, of course, of the families of alcoholics. It has been estimated that for every 1 of the 10 million alcoholics in this Nation, another 4 persons is adversely affected.

Dr. LeClair Bissell, chief of the Smithers Alcoholism Treatment and Training Center of the Roosevelt Hospital in Manhattan has said:

> The people who are damaged most directly by alcoholism in someone else are usually those closest to the drinker, particularly those who because of the special vulnerabilities of the very young, the weak, the elderly or the economically or emotionally dependent are unable or unwilling to escape from the situation. Obviously, this is most likely to be the immediate family.

Virginia Grady, a staff assistant at the U.S. Postal Service's program for Alcoholic Recovery (PAR) in St. Louis has pointed out that:

> The family also progresses through all the stages (of alcoholism) in its emotional disturbance. The family continues its progression marked by constant and consistent disturbances of plans, emotions and routines of living. The only dependable aspect of life is the unpredictability of the alcoholic. As the progression continues, life for the family of the alcoholic becomes crisis after crisis until the family unit breaks down from the strain or physical or emotional death may occur, separating the members. Alcoholism is indeed a family disease.

Mrs. Josie Couture, founder and president of the Other Victims of Alcoholism, Inc., points out that it is still not generally recognized that the families of alcoholics need information, help, and/

or treatment, whether or not the alcoholic seeks help or even recognizes the existence of a drinking problem. It is still too often assumed that the alcoholic is the only person in need of help when dealing with this illness.

According to Mrs. Couture:

More than 28 million children of alcoholic parents are affected by parental alcoholism.

A correlation definitely exists between child neglect and abuse, battered women, and alcohol abuse.

Almost 50 percent of all divorce cases show excessive use of alcohol as a major causative factor.

At least 50 percent of all juvenile delinquents and 60 percent of all runaways, have family members with drinking problems. Yet these other victims of alcoholism are usually completely overlooked or used only as an intervention device in the recovery of the alcoholic.

The Reverend Joseph Kellermann makes the following analogy:

Most philosophies of alcoholism treatment are comparable to treating only the driver of a wrecked automobile, regardless of the condition of the other passengers in the car. Of course, that isn't what happens. If the driver of the car lives or dies, we still try to save the other occupants of the wrecked car. The same should be true if the alcoholic lives or dies. We should be concerned with the others wrecked by alcoholism.

Perhaps the most heart rending examples of the effect of alcoholism on these other victims are the children. Emotional neglect and family conflict are the most frequent problems these children experience. Researchers are seeking to broaden our knowledge of the needs of these children and preliminary research data confirm the observations of professionals in the field that these youngsters have a poor self-concept, are easily frustrated, often perform poorly in school, and are more likely than their peers to suffer from adjustment problems. We also know that alcoholism runs in families and that children of alcoholics have twice the chance of becoming alcoholics themselves.

There are more than 28 million children of alcoholics in the Nation. In my State of New Jersey alone, close to a million and a half children live in homes where one or both parents are alcohol abusers.

Dr. LeClair Bissell, in her testimony before the Subcommittee on Alcoholism and Drug Abuse on June 20 of this year gave some poignant examples of such children:

An eighteen-month old child had been thought to be retarded since she had never spoken. She sat in a highchair next to a table on which her divorced and alcoholic mother had placed a freshly-opened beer can. The child tried to push the can away and said, "Mommy, No! her first words. (That particular mother, now many years sober in Alcoholics Anonymous, says that this was the event that stopped her drinking.)

Another baby who really is retarded was seen recently by her pediatrician. During pregnancy neither her mother nor the obstetrician, who later delivered her, knew that heavy drinking during pregnancy could deform the developing fetus. For this baby the knowledge is too late. Even had it been available it is probably that the doctor involved has never been taught how to deal with alcoholism effectively. He might well have informed, warned and scolded but he might not have known what else to do.

An overweight eleven-year old boy is inattentive and drowsy at school. His facial development is also suggestive of the kind of birth defect associated with heavy maternal drinking during pregnancy. His present situation is that he stays up all night with an alcoholic stepfather who, if not distracted and cajoled while drinking, is prone to attack the boy's mother and younger sister. At night the boy keeps vigil. During the day he eats compulsively and sleeps when and wherever he can.

A solemn thirteen-year old reports that the reason his parents have moved from one house to another every two or three years was that his mother usually drank less when kept busy decorating a series of new homes. That his own attempts at establishing friendships or carving out a place for himself at school were repeatedly disrupted seemed of little concern to this family. Since simple changes of geography or taking on a hobby do not arrest alcoholism for long, the attempted solution didn't work. The drinking continued. Meanwhile the combination of constant moves and the mother's unpredictable behavior throughout his childhood have left the boy old beyond his years.

A teen-aged boy is becoming increasingly isolated and is falling behind in school. He no longer dares invite friends home because his drinking mother is coy and flirtatious with his friends. He and his father never discuss alcoholism though they alternate watching the mother to be sure she does not start fires with unwatched cigarettes, attempt to drive or to make endless long distance phone calls to casual acquaintances while drunk. One or the other is always with her from late afternoon till morning.

Dr. Bissell points out that essentials for normal development in children and for reasonable health and stability for any of us are food, shelter, clothing, and some degree of predictability in our own lives. Those close to an alcoholic may be lacking all of these things. In addition, the nondrinking parent usually becomes so focused on the alcoholic that the children are neglected by both parents, even the one presumed to be well.

Children, of course, are not the only persons who suffer from the affects of alcoholism on the family.

Dr. Bissell told of a middle-aged man who received a head injury while drunk. His wallet and identification were stolen before he was found and hospitalized. The combined effect of his injury and a severe alcohol withdrawal reaction prevented his identification for several days. The paralyzed and dependent parent with whom he lived did not survive.

She also told of a schoolteacher who cleans up after dinner and leaves the house with her children for an all night movie. They will sleep there for several hours, then return home where she will grade papers, sleep another hour or two and get herself and family ready for breakfast, work, and school. Her husband gets drunk and abusive almost every evening. She has learned to get herself and the rest of the family out of his way. She does not believe in divorce.

"What makes this tapestry of human misery especially tragic," says Dr. Bissell, "is that much of it is unnecessary. Many sources of help are potentially available and much could be done."

The significant role that alcohol plays in the incidence of wife beating is generally recognized by health care deliverers. One recent study concluded that more than half of the country's married women are physically abused to some degree by their husbands and that at least 10 percent—close to 5 million women—are badly battered. The widespread and alarming occurrence of spouse abuse on all socioeconomic levels is not sufficiently understood by society and spouse abuse victims are not receiving the support from social service agencies and law enforcement officials which they need and deserve.

A law enforcement officer in Salt Lake City testified recently that:

In law enforcement, we see every day the dramatic effect that drugs and alcohol have on the family; from the car accidents that end up killing and maiming hundreds in this State each year, to the broken homes and neglected children, the alienated youth, the divorces and other domestic problems that result from drugs and alcohol abuse.

There hasn't been a single 8 hour shift that I or my men are not involved with a person who is under the influence of alcohol. It has become so predictable that we can readily anticipate according to the day of the week, what type of alcohol problems we will be dealing with. Friday and Saturday nights are fight nights at the bar. Saturday and Sunday, domestic problems. Every holiday brings on a new upsurge of problems created by the use of alcohol and drugs.

Mr. President, what can be done? The National Council on Alcoholism has suggested that the issues concerning alcoholism and the family require a special focus to effect the following:

Early recognition of family symptoms indicating alcoholism.

Determination of problems for intervention.

Assurance of adequate services and resources for the family, whether or not the alcoholic is in a recovery program.

Recognition of the on-going needs of the family regardless of the alcoholic's recovery

Dissemination of present knowledge.

The members of families with alcoholism must be motivated to seek help—not only for their alcoholic member but for themselves. Information concerning sources of help—such as Al-anon, Al-ateen, counseling services, crisis shelters—should be widely disseminated. All alcoholism treatment centers should be required to have counseling and treatment services designed to fit the needs of the family. Treatment centers—especially those for women—should have provisions for the care of the children of alcoholics while the alcoholics themselves are in treatment.

According to Dr. Bissell, health insurance coverage should be provided for the treatment of families of alcoholics as well as for the alcoholics themselves. Physicians should be encouraged to raise their level of suspicion about alcoholism in the family. Dr. Bissell has pointed out that certain physical illnesses such as asthma, allergies, and ulcers often occur among the children and spouses of alcoholics. Complaints of insomnia and nervousness are also indications of alcoholism in a family.

Peter Brock of Group Health Association of America has called for development of "a better understanding by

policymakers and care providers about services to families" of alcoholics. These families are "a high risk group" and constitute "a good place to start" in the prevention of alcohol problems, according to Brock.

There is a need to educate lawyers, judges, and court officials on how to identify and give constructive aid to persons affected by alcoholism in the family. The family court system does not provide sufficient help for such persons.

Josie Couture has pointed out the plight of fathers who are divorced from the mother of their children when the mother is an alcoholic. The mothers often receive custody despite their alcoholism. In some States, Mrs. Couture says, the courts are allowing fathers to make direct payment of the expenses of providing a home for the children, rent, utility bills, food bills, et cetera, rather than making cash payments to the mother, if the father has evidence that the mother is spending such child support payments on alcohol. Chief Justice Richard J. Hughes of New Jersey is consulting with New Jersey's juvenile and domestic relations judges and the chancery judges assigned to matrimonial cases in order to assure that New Jersey Courts are alert to the involvement of alcohol abuse in the cases which come before the courts.

Mr. President, the "Families with Alcoholism Assistance Act of 1977" will help to focus the attention of the National Institute on Alcohol Abuse and Alcoholism, and of the individual States, on the needs of these families. Recognizing the substantial impact that alcohol abuse has on the families of alcohol abusers and alcoholics it:

Requires the States to survey the need for education, counseling and treatment of the families of alcohol abusers and alcoholics and provide assurance that programs within the State will be designed to meet such need;

Authorizes grants and contracts to provide education, counseling and treatment for the families of alcohol abusers and alcoholics;

Provides for programs and services, including education and counseling services for the benefit of the families of alcohol abusers and alcoholics; and

Authorizes research which places special emphasis on the impact of alcohol abuse and alcoholism on the family.

Mr. President, this will allow us to begin to address the needs of this long neglected population.

STATEMENT BY SENATOR HATCH ON OSHA

Mr. GARN. Mr. President, in the absence of my colleague, Senator HATCH, who has returned to Utah on an urgent matter, I ask unanimous consent to print in the RECORD his statement on OSHA which he would have made were he able to be present.

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

STATEMENT BY SENATOR HATCH

Mr. President, I want to share with my colleagues the results of a shocking survey of American businessmen sponsored by the Washington Legal Foundation (WLF). The survey reveals the devastating effects that the Occupational Safety and Health Administration (OSHA) is having on the productivity and morale of American businesses.

Not surprisingly, the WLF survey shows that the average businessman who has been cited for violations by OSHA is totally out of sympathy with OSHA and its procedures. But more importantly, employers have reported that the vast majority of these businesses' employees also disagree with OSHA. I feel the survey results should add to the evidence which encourages us to restudy the entire Occupational Safety and Health Act with the view to making necessary structural and administrative changes.

After all, if the very individuals OSHA is meant to protect—the employees—feel the Agency is a disaster, shouldn't Congress and the President heed these voices.

As Congressman George Hansen has said, there is a sad parallel between the 1976 problem of "regulation without reason," and the 1776 problem of "taxation without representation."

And as we stand here today there is still no conclusive proof that after seven years, OSHA has accomplished anything in actually cutting the accident and illness rate in American industries.

While the Bureau of Labor Statistics show a decrease in the rate of injuries and illnesses since 1971, most of the decline is a result of changes in minor, non-serious categories. This hardly justifies the fact that American businesses must spend $10 billion in fines and compliance costs.

The National Safety Council actually shows a rise in disabling injuries during 1975.

I think the record is clear. We are costing businessmen, consumers and taxpayers literally tens of billions of dollars on an agency that has little to show for its efforts. And the results of the Washington Legal Foundation survey prove that absolutely nothing has yet changed at OSHA despite the money and time they are spending to "clean up their image" and make cosmetic changes.

Nine hundred and eighty-nine businessmen cited OSHA responded to the WLF survey. They revealed that combined they spent $1,492,337.00 on legal fees alone.

An overwhelming 61.7 percent of those responding said that the OSHA ruling would affect their business, while only 15.4 percent said that the decision will not affect them.

When asked whether their battle with OSHA affected company productivity, an incredible 76.2 percent of those businessmen responding said that it would have an effect, while only 23.7 percent said there was no effect.

One other highlight I would like to point out regards employee response to OSHA. The businessmen were asked how their employees felt about the OSHA ruling against them. Incredibly, only 6 percent were said to be either "enthusiastically" in favor or "generally" in favor of OSHA's position. On the other hand, 69.1 percent of the employees were listed as being against OSHA. Approximately 23 percent were unable to be determined.

It seems to me that this survey highlights the terrible plight of American business, the hopeless, misguided harassment by OSHA, and apparently the deep sense of frustration and mistrust by the people OSHA is supposed to represent.

NATIONAL SURVEY OF BUSINESSMEN VICTIMIZED BY OSHA

Respondents were asked to give candid answers to the following questions about your personal experiences with the Occupational Safety and Health Act.

1. Approximately how much in legal fees did you or your firm spend fighting the OSHA ruling against you? $1,492,337.00.

2. How did your battle against OSHA affect the productivity of you and your business?

Percent, 27.3, No. 243. My OSHA fight greatly reduced productivity.

Percent, 48.9, No. 435. My OSHA fight slightly reduced productivity.

Percent, 23.7, No. 211. My OSHA fight had no effect on productivity at all.

3. What will be the long term effects of the OSHA ruling against your firm?

Percent, 25.5, No. 232. The OSHA ruling will disasterously affect my business.

Percent, 36.2, No. 329. The OSHA ruling will only slightly affect my business.

Percent, 15.4, No. 140. The OSHA ruling will not affect my business at all.

Percent, 22.9, No. 209. I am unable to determine the effects of the OSHA ruling at this time.

4. How do your employees feel about the OSHA ruling against you?

Percent, 1.6, No. 15. They are enthusiastically in favor of the OSHA decision.

Percent, 5.4, No. 49. They are generally in favor of the OSHA decision.

Percent, 43.1, No. 389. They are definitely against the OSHA decision.

Percent, 26.0, No. 235. They are generally against the OSHA decision.

Percent, 23.8, No. 213. They seem to have no opinion.

5. Has OSHA re-visited your firm after levying the fine against you? If so, how many times?

Percent, 46.3, No. 407. OSHA has NOT re-visited my business.

Percent, 53.7, No. 473. OSHA HAS re-visited my business.

(Number of time re-visited: 1403)

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I wish to report that, according to U.S. Census Bureau approximations, the total population of the United States as of November 1, 1977, is 217,965,644. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,793,106 since November 1 of last year. It also represents an increase of 154,585 since October 1, 1977; that is, in just the last month.

Over the year, therefore, we have added more than enough people to fill the city of Detroit, Mich. And in just 1 short month, our population has grown enough to more than fill the city of Lincoln, Nebr.

TOWARD A SOUND AND COMPREHENSIVE HOUSING PROGRAM

Mr. HUMPHREY. Mr. President, our Government-assisted housing projects have been a continuing source of concern to me in recent years because so many of them have been unable to succeed financially. These failings worry me, because if our housing cannot be economically sound, it cannot be physically sound. Thus, the most basic purpose of our housing programs—the provision of decent, safe, and sanitary dwellings for every American family—fails to be achieved.

Certainly some of these failings must be blamed upon the severe buffeting of all our institutions by economic forces of inflation and scarcity. But other failings, that we in Congress can prevent by attention to a sound and comprehesive housing program, ought to be dealt with. While it seems to be accepted wisdom today that housing projects sponsored by

nonprofit groups and organizations cannot succeed and ought not to be allowed, it seems to me that some causes of failure relate not to the character of the sponsor but to events which any owner would find financially distressing. If this is so, then we ought to restructure our housing programs to encourage nonprofit sponsorship, since that in some instances it is a more beneficial, more credible, and more understandable form of ownership.

The Senate Banking and Currency Committee, chaired by my very able colleague, Senator PROXMIRE, recently held oversight hearings on distressed FHA multifamily housing projects. I have received a copy of a statement which has been submitted for the hearing record by Neal D. Peterson, counsel for Tuskegee Realty Management, Inc. This is a management company that works exclusively with subsidized housing. I commend the statement to my colleagues, for it points up the very practical, day-to-day difficulties which our multifamily projects face and paints a picture of why both nonprofit and profit-motivated sponsors have faced financial disaster at these projects. The statement also makes a number of recommendations for housing policy that would allow us to begin dealing rationally with these difficulties.

I ask unanimous consent that the statement be printed in the RECORD.

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

TESTIMONY SUBMITTED TO THE SENATE BANKING COMMITTEE IN CONNECTION WITH OVERSIGHT HEARINGS ON DISTRESSED FHA MULTIFAMILY PROJECTS

Mr. Chairman, we appreciate the opportunity to submit this testimony to a committee which has the ultimate responsibility for the content and character of government housing programs and which sets government housing policy. We believe that our experience as a company which manages, exclusively, HUD-insured or HUD-owned projects, has given us some insights into what troubles these projects.

Projects become financially troubled for any number of reasons:

Poor initial design and construction;

Major repairs;

Failure of rent increases to keep pace with rising costs;

Unrealistically low allowances for construction;

Unrealistically low amounts in operating budgets for repairs;

Inability or excessive expense to replace fixtures and equipment;

Unexpected, large utility bills or deposit requirements; and

Expenses of landlord-tenant rent disputes.

Any one of these can cause project default; when more than one is present, it means virtually certain default. The economic mechanism of default is relatively simple:

A project has certain income which is limited by federal rent approvals;

The rent levels should (but often do not) reflect actual operating expenses and debt service;

If any event causes an increase in operating expenses, a decrease in rental income, or a disrupted relationship between the two, then the project is in financial trouble.

It is the latter events which we feel can be moderated by federal housing policy and certain new, but essential loan insurance programs, so as to increase the likelihood of project success.

As we outline the events which cause default and the housing policy that would deal with them, you will note that so-called "bad management" is not among them. We can assure you that management of these projects is difficult. In fact, a management company which can manage a conventional project well, will probably not be able to manage a subsidized project at all. This is not bad management, but simply ordinary, prudent management called upon to make extraordinary efforts to cope with extraordinary living situations. It is our opinion that project failures are not caused by this type of management. Projects fail for other reasons and even with the best possible management. In any event, management problems are administrative, not legislative problems.

Perhaps the easiest way to discuss the causes of project failure is to discuss specific problems which we have encountered during the course of our management of HUD projects and consider the type of solution that the Congress ought to adopt.

MAJOR STRUCTURAL REPAIRS/ALTERATIONS

At a large suburban type garden apartment project which we manage in the District of Columbia, we recently discovered that the underground water pipes are deteriorating because they were laid directly in the ground rather than in concrete tunnels. The insulation has now, after eight years, disintegrated, and the pipes themselves are corroding. Each time there is a leak in one of these pipes, the project incurs costs for excavation [which at this particular project is high because there is no accurate plat of the exact locations of the water lines], laborers, plumbers, equipment, and backfilling plus the loss of water and the higher water bills. I might remind you that the only way a leak in an underground pipe is discovered is by water leakage at the surface or greatly increased water bills, which cannot be explained by rate increases. By the time either of these reveal a problem, there will have been a considerable loss of water.

The solution to the immediate project problem is to re-pipe the project, putting water lines into concrete tunnels. This of course is a substantial expenditure and one which is completely beyond the ability of a subsidized project to finance on a current basis. The housing policy problem is that there is no federal program which provides for refinancing subsidized projects to allow for the major capital expenditure that repiping a project or other similar major structural repair or alteration necessitates. For these major items, which are not at all unusual, mortgage modifications or forbearance are not sufficient.

The consequence is project failure, by whatever measure that is determined—default on mortgage payments; increases in rents beyond what tenants can afford to pay; destruction over a period of time of the value of the Secretary's security for her guarantee; foreclosure and resale with the possibility that the units after foreclosure will not be available to subsidized tenants; or interruptions in service and tenant discomforts.

SOIL EROSION

Two projects which we manage suffer from severe erosion problems. One is situated on a hill, the other in an area of sandy soil where it is extremely hard to grow vegetation. Both have an appalling appearance. They look like slums, although they are intended to be housing for moderate income families. It is impossible for any tenant of these projects to feel comfortable in such surroundings, much less having a feeling of satisfaction or pride in their home.

Here again, the projects are not able to finance currently the expenditures necessary for a permanent solution to the erosion problem, because that would require a complete and thorough redesign of the site—with retaining walls, walls or fences to control pedestrian traffic, terracing, construction of drainage channels whether concrete or earthen, etc.

For projects already in existence, a refinancing program or a reasonably large or lengthy period of mortgage relief would provide funds. But this is a recurring problem of HUD insured projects which ought to be solved from the beginning, with appropriate attention being paid to site engineering and landscaping and its corollary appropriate costs allowed in the project mortgage for these essential project items. It has been our experience that in processing a project for insurance under the subsidized programs, HUD had adopted policies on allowable costs which build in project failure. These policies have at least two manifestations—a reliance on costs of previous projects without adequate allowance for inflation and a refusal to allow expenditures at levels which assure a sound physical structure and surroundings. If a builder then hopes to make a profit he must use cheap materials or omit essential but costly construction. Adequate expenditures for site work are only one victim of such policies. There is no reason why HUD subsidized projects cannot be built on hills and still look decent. The Italians have been building villages and towns on mountain tops for thousands of years and they are beautiful.

EXPENDITURE ANALYSIS FOR RENT INCREASE

The rent increase approval process over the years has become more complicated and surrounded by technical rules and requirements. One formula which causes particular difficulty is that which HUD uses to determine the maximum rent increase that are allowable at a particular time. The formula is based upon past expense history with a factor for inflation in utility expenses and wages and salaries. The formula does not allow for rent increases to pay off accounts incurred during times when the rents are inadequate to meet operating expenses, when unexpected bills are received, when extraordinary repairs must be made, or when it is prudent to build up an operating reserve.

The only way in which these desirable financial measures can be realized is by a period of mortgage relief. We suggest that consideration be given to allowing the payment of these obligations and the building of these reserves in the rental charges, with appropriate levels of subsidy assistance where necessary.

PHASED RENT INCREASE APPROVALS

We are constantly engaged in the rent increase process at all of the projects which we manage. One superficially expedient practice of HUD is to approve rent increases, but require that the tool increase be phased in over a six month or longer period. The rent levels we seek are needed immediately. When the full increase in income is put off for several months, the project's financial condition gets worse. When it becomes bad enough, there must either be an immediate and larger rent increase or there must be mortgage relief.

In the current economic environment, where more and more rent payments are being made through the Section 8 rental assistance program, HUD should not insist on phased rent increases. Under Section 8 the tenant pays 25 percent of his income no matter what the rent levels. HUD, of course, should check to see that operating costs are not excessive, but when it is obvious that rents must rise, then HUD gains nothing by phasing the increase. The situation is marginally more difficult with tenants on rent supplement, for that program requires ten-

ants to pay 30 percent of the rent, no matter what their income. So each time there is is a rent increase, some portion must be paid by the tenant. The solution is to do away with the 30 percent requirement.

VANDALISM

At several projects which we manage in the Anacostia District of Washington, D.C., there is constant and persistent vandalism. Repairs and replacements which must be made repeatedly add significant costs to project maintenance which, in turn, requires higher rents. To convey the scope of the financial problems created by window breakage, I can relate to you that at one project we initially attempted to replace glass windows with lexan and other plastic materials to cut down on the breakage. But lexan breaks too. And replacing lexan is more expensive than glass. So after replacing lexan two times, we went back to the use of glass. The only way to keep expenses down for window breakage, is to delay replacement for a day or two, if possible. This, of course, is unsightly and contributes to a slum appearance.

The vandalism problem is directly related in our view to the lack of supervised recreational opportunities and recreational facilities in the projects and in areas adjacent to the projects. At one project which contains 150 units with three or more bedrooms [that is, large numbers of children], current regulations do not permit a salary in the project budget for a recreation director. There is a clubhouse at this project, but it cannot be used because there is no one to take care of it. In fact, this clubhouse has been completely rehabilitated and redecorated at least three times in the four years that we have managed the project. We notice that when it is closed, the children from that project congregate at another project and cause problems for those tenants.

But the problem is broader than a single project, for when vandalism takes place, tenants invariably blame it on persons from outside the project, and they are often right. The project I have just described happens to have the only swimming pool and basketball court in a six block radius. It is a natural magnet for children who live elsewhere. The facilities are inadequate for the project children; they are meager, when measured by the needs of the neighborhood.

The housing policy which meets this problem squarely would be one which allowed for construction of adequate recreational facilities as new projects are constructed and as old projects are rehabilitated. Also necessary is funding, or inclusion in the rent structure, of recreational leaders who can work on a permanent basis with project residents.

RISING OPERATING COSTS

Over the past five years the costs of operating a particular highrise family project have increased from $1,255 per unit to $1,980 per unit. To the best of our ability, the rents have been increased to compensate for these costs. Now, however, many tenants can afford to purchase single family homes rather than renting at this project and there is a serious vacancy problem. Under ordinary circumstances, at this time, we would call upon the "Section 8 existing housing" program to enable us to find or retain tenants. But this project is located in a local jurisdiction which adamantly refuses to allow Section 8 funding. We believe that the local officials have adopted this policy to keep out poor people and, in addition, to discourage developers of housing for low and moderate income families and individuals from building in the County.

So far HUD has capitulated to this refusal to allow rental assistance to the families that are already living in the County. HUD's failure to act to protect its investment has two consequences which are inconsistent with the goals of our national housing policy: tenants must pay greatly more than 25 percent of their income for shelter costs and services and maintenance must be cut back to match the reduced income from reduced tenancies.

We suggest that it is in HUD's financial interest to preempt local decisions which prohibit rental assistance and cause financial failure of projects. Insofar as existing subsidized projects are concerned the Federal government simply cannot afford to withhold rental assistance. You may choose to have a different standard for newly constructed housing, but surely the guarantees of mortgages which are already outstanding should be protected from default, especially when the tools to prevent such defaults are readily available to HUD and, in fact, are preventing defaults in other jurisdictions.

UPGRADNG FIXTURES

At a large townhouse cooperative project in Annapolis, we and the co-op members have had a very serious problem due to an initial decision by the builder (approved by HUD) to install all electric heating and air conditioning. This basic error was then compounded by the installation of under-sized units which are completely incapable of heating the houses. This project suffers from the HUD philosophy that housing for moderate income families must be cheap.

Because of the high electric bills (which are now paid by the members rather than the cooperative corporation), the mortgage went into default several years ago. There has been one period of mortgage relief after another in order to solve this and other problems of the project while keeping alive the cooperative idea. But what must be done, obviously, is to obtain a substantial sum of money to either install large capacity units or to convert heating to oil. What *is* being done, is that out of mortgage relief we are purchasing and installing baseboard heating units, a few houses at a time. This additional heat source has ameliorated the problem of finding ice formed on glasses of water left on the bedroom bureau overnight during the winter. But the piecemeal approach is expensive and while some co-op members have relief, others must suffer cold homes.

Clearly, as a matter of national housing legislation, what is needed is an insured, subsidized home improvement program, in the case of this project, a part of the 236 program, which will allow the upgrading of structural and mechanical systems so that decent housing can continue to be provided. As an aside, I am assuming that HUD will not again approve a project initially for all electric heating and cooling. At this project, we have advised members that they simply cannot cool the houses during the hottest months of the summer. Indeed, with the electric bills running as high as $200 per month, there are some members who have simply had the electricity shut off and who live in the houses without lights, etc., because they cannot afford both the high monthly electric bills and the monthly carrying charges.

INABILITY TO GET REPLACEMENT PARTS FOR EQUIPMENT AND FIXTURES

Another consequence of HUD's emphasis on cheap construction is the significant costs incurred for routine maintenance during the life of the project mortgage. One element of increased lifetime costs is the difficulty of obtaining replacements for parts which are damaged or wear out.

In a townhouse project which we manage in Anne Arundel County, Maryland, we have waited months to obtain kitchen cupboards and drawers because the manufacturer of the original cabinets is no longer in business and the items have to be custom built. There are two loses here—a loss of income because the units cannot be rented if the kitchens are not complete and a loss on having to pay a premium price for the custom built cabinets.

At another project we had a virtual epidemic of stove failures. The manufacturer had gone bankrupt, a smart businessman purchased the replacement parts inventory, and the price of knobs and heating elements doubled. Again, the project suffers two economic losses.

The housing policy solution has two parts: first, HUD should not allow construction of projects which will contain bargain basement fixtures made by fly-by-night manufacturers; second, if HUD persists in allowing the use of equipment of manufacturers who cannot be anticipated to be in business for the life of the mortgage, then there will have to be additional operating subsidies to cover replacement costs.

MAIL DELIVERY

At most of our projects located in inner-city areas, we have encountered a terrible problem with mail deliveries. The Postal Service will not deliver any mail to a set of boxes in which any one individual box is damaged. Since welfare and Social Security checks are a prime target of crime in these areas, it is a daily occurrence to find that one or another of the boxes has been pilfered. Repairs or replacement of the equipment is expensive, cannot be done immediately, and is usually not lasting.

The Postal Service refuses to hold the mail at its offices, but rather, at one project, has delivered it to the project office. There it must be sorted and held for tenants. This takes valuable time away from the management staff's regular duties to perform a function that should be handled by the Postal Service.

As a matter of housing policy, the Department of Housing and Urban Development should be directed to meet with the Postal Service to resolve the delivery problem and failing agreement, Congress should provide the Postal Service with funds to open local post office delivery stations in these areas. What we envision is a small post office similar to the many rural and small town offices which existed for many years in this country. While tenants would have to go to the stations to pick-up mail, they would be reasonably certain of receiving the mail. The whole operation would be much more secure.

UNEXPECTED OR ACCELERATED UTILITY BILLS

Frequently in inner city areas utility bills are estimated. We have projects where no actual readings of the meters were made for over a year. When the readings were made, the actual use was much greater than the estimate, leaving the project with a difficult payment problem.

At another project the utility company had missed the fact that there were two meters at the project; sent bills for a three year period only for the one meter; and then sent a huge bill to cover the usage on the second meter. It required a substantial period of mortgage relief to pay off the bill.

A second aspect of utility charges involves the cash flow problems when a local utility or local government changes its billing practices. For example, the District of Columbia for many years was seriously behind in its water bills. The lag between usage and billing was often greater than six months. This year, however, the District government directed its water department to accelerate the billing so as to get the two events into better time relationship. This year our projects in the District will pay three water bills instead of two. This comes on top of substantial rate increases and means more mortgage relief.

The housing policy solution could take several forms: perhaps the least expensive to the Federal government would be to work with local governments and utility com-

panies to urge them to adopt monthly billing and to maintain a consistent billing procedure. Another action which the Federal government could take is to create an emergency cash flow fund, which would lend funds to projects to meet unanticipated bills, with the loans being paid back over time in line with project budget predictions.

UTILITY DEPOSITS

Over the course of the past year we have encountered demands from utility companies in a variety of jurisdictions that the projects post deposits with them to assure bill payment. At none of these projects are the utility bills unpaid. At many, however, the bills are paid late—which is due to the nature of operating a subsidized project. In some instances, this lateness is caused by the time required by HUD to process rent supplement vouchers.

Nonetheless, the fact remains that these utility companies are demanding substantial deposits; at our projects, ranging from $3,000 to $15,000. These demands are made to assure payment of bills from projects which have difficulty paying current costs, on penalty that the utility service will be shut off. We have resisted these demands because we feel they are unfair and discriminatory, but a solution to this problem will require action by HUD to provide the legal resources to litigate these demands or to negotiate solutions with the utility companies.

LANDLORD-TENANT INEFFICIENCIES

In too many instances and in too many different jurisdictions, we have run into difficulty in convincing rent court judges of the very thin financial margin on which HUD-subsidized projects are operated. Therefore, they allow tenants to pay late, pay reduced amounts or put money in escrow. Any of these practices causes financial problems for the project and it is patently unfair to the other tenants who do pay their rent on time and in the full amount. It is these families in the project who must carry the losses of non-payment of rent, who must suffer the consequent decreases in services, and who must pay rent increases.

HUD should be directed to create a special organization within the General Counsel's office that will be responsible for meeting with the judges of landlord-tenant courts in every local jurisdiction in which there is a HUD-subsidized project to impress upon them the need for strictness in payment of rent at these projects.

CONCLUSION AND RECOMMENDATIONS

The foregoing has been a quite extensive litany of practical project problems. In many instances a project will be plagued by three, four or more of these problems. We believe that government housing programs should be available to deal with these ongoing problems, for this will increase the probability that project management can be more "normal" or "conventional." Our policy recommendations are summarized as follows:

1. Create a program for refinancing subsidized projects to pay for major structural repairs and alternations at subsidized rates;

2. Revise mortgage limits upward to allow for quality construction and design of projects;

3. Revise rent increase processing procedures to eliminate phased increases and to allow for payment of back bills;

4. Revise mortgage limits upward or create a special municipal grant program to provide funds for recreational facilities at both new and rehabilitated projects;

5. Allow project operating budgets to include salaries for recreational directors or create a grant program to local governments for the payment of such personnel at project facilities;

6. Eliminate the right of local government disapproval of rental assistance payments to tenants in existing low income housing;

7. Create a replacement parts operating subsidy to assure an adequate supply of funds for repair items, fixtures, and equipment;

8. Create a supplemental mortgage loan program at subsidized rates for upgrading major structural systems in subsidized projects, including measures to conserve energy;

9. Require the Postal Service to operate and maintain neighborhood postal stations to assure delivery and reduce maintenance and security costs to the project;

10. Work out a national policy and agreement with utility companies for regular monthly billing of utility expenses, including a requirement for actual meter reading and projection against billing method changes;

11. Resist by authorizing legal actions the imposition of utility deposit demands; and

12. Create and fund a nationwide educational program for rent court judges about the economics of subsidized project operation and their obligation to require prompt and full payment.

HUD subsidized projects are, by their very nature, run on a very thin financial margin. Rents ordinarily barely cover normal operating costs and debt service. Therefore, when any operating expense is unexpectedly large, comes due sooner than predicted, or when income falls because rents are too high or rents are paid into an escrow with a court, there is a serious cash flow problem. All too often, even a period of mortgage relief does not cure the problem. New programs and new policies are necessary to create the proper climate for project success.

TUSKEGEE REALTY MANAGEMENT, INC.,
NEAL D. PETERSON,
General Counsel.

STRATEGIC ARMS AS BARGAINING CHIPS

Mr. MATHIAS. Mr. President, the strategic arms limitation talks (SALT) are much in the news these days. As the prospect of an agreement between the Soviet Union and the United States grows brighter, the difficulties between the administration and its critics over SALT multiply.

It is proving extremely difficult to slow the nuclear arms race. While we may succeed in placing ceilings on numbers of strategic delivery systems, the technological race appears to be escaping us. I had hoped we would be able to address this problem through limitations on flight testing of intercontinental ballistic missiles (ICBM's), but such limitations now seem unlikely in the emerging SALT II agreement.

One problem is that we are too often uncertain why we are adding to our strategic arsenal. At times it is argued that we need a given system not because it increases our security but because it contributes to the perceptions held by our allies and adversaries of our strength. Another argument that has been used in support of new developments in our strategic weaponry is that they represent useful "bargaining chips" to be used in negotiations with the Soviets. Our nuclear arsenals are filled with former "chips."

In this connection I wish to commend to my colleagues a perceptive article by Robert C. Gray and Robert J. Bresler appearing in the latest issue of the Bulletin of the Atomic Scientists entitled, "Why Weapons Make Poor Bargaining Chips." I ask unanimous consent that this excellent article be printed in the RECORD.

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

WHY WEAPONS MAKE POOR BARGAINING CHIPS

(By Robert C. Gray and Robert J. Bresler)

No concept has been more central to the SALT negotiations than that of the bargaining chip—the idea that the development of new weapons systems may stimulate an agreement. President Nixon and Defense Secretary Laird argued that success in SALT I was a direct result of the decision to go forward with Safeguard ABM, the Poseidon submarine and Minuteman III. They insisted that any consequent success in SALT II would depend on whether Congress would approve a new set of bargaining chips such as the Trident submarine, the B-1 bomber or the cruise missile.

Yet by 1976 many came to oppose the bargaining chip approach. The former chief of the SALT I delegation and director of the Arms Control and Disarmament Agency, Gerard C. Smith, was quoted as stating that bargaining chips and bargaining chip theories are "unproductive" and "bankrupt." Averell Harriman declared, "The bargaining chip theory should be abandoned; it is utterly discredited." And presidential candidate Jimmy Carter, in the New York Times of July 7, 1976, stated that a bargaining chip policy was not an "advisable procedure" and as a general principle it was a "foolish approach."

In spite of these criticisms and others, the bargaining chip has continued to be a staple of our arms control policy. With the failure to reach an immediate SALT II agreement with the Soviets last March, President Carter, in terms reminiscent of his predecessors, warned that he would be forced to consider acceleration of American weapons development if he judged the Soviets were no longer negotiating in good faith. More specifically, Hedrick Smith in the New York Times of April 5 reported that:

"Administration officials acknowledged that the government was trying to use Soviet fears about the development of the American cruise missile as an inducement to get the Kremlin to relinquish some of its heavy SS-18 missiles. They made it clear that the cruise missile, with its potential for accuracy and deployment in large numbers, has become a principal bargaining chip with Moscow."

Given the persistence of the bargaining chip approach, it is imperative to understand its use in the SALT talks thus far. The unfortunate history of this stratagem leaves us little grounds for believing that it could be productive in the future.

MIRV flight testing. In 1968 when Secretary of Defense Clark Clifford approved the start of MIRV flight tests on both the Minuteman III and Poseidon missiles, he saw the tests as a bargaining chip. Clifford asserted, "an ongoing MIRV test series would provide added leverage for (the SALT) talks" scheduled that fall. Clifford did not alter this decision even though the Soviet invasion of Czechoslovakia forced a prolonged postponement of the talks.

In the policy hiatus between the Johnson and Nixon administrations, and later during the early SALT talks, MIRV flight-testing went forward to the point of no return, that is, MIRV was perfected for deployment. Even if the Soviets had wanted to forgo MIRV, they could not at this point—for only MIRV testing, not deployment, could be verified by national technical means. The Soviets therefore had to assume that MIRV, once

successfully tested, would be deployed and hence had to develop their own MIRV program.

Had Clifford and his successors been more self-conscious about what they were doing and had they thought through the implications of using MIRV as a bargaining chip, they might have understood that by flight-testing MIRV they were giving up the chance of convincing the Soviets to forgo their own MIRV development.

Cruise missiles. As with MIRV flight-testing, cruise missile development was originally justified as a bargaining chip. But, as with MIRV, the bargaining chip may have proved too evasive a concept to control the tempo of cruise missile development.

The initial enthusiasm for the cruise missile came not from the military but from civilian leadership. Peter Waterman, a Navy R&D official, testifying before the Senate Committee on the Armed Services in 1973, indicated that the idea to proceed with a strategic cruise missile prior to perfecting a tactical cruise came from the Secretary of Defense. "We have been asked," admitted Waterman, "by the Secretary of Defense to provide a demonstration of capabilities of all the elements of the strategic cruise missile in time relationship to the SALT negotiations." In sum, the Navy was being pressured to develop a strategic cruise missile to affect America's negotiations with the Soviets.

Whatever reluctance was initially felt by the military gradually dissipated. Early in 1975, *Science* magazine reported that according to the Assistant Deputy Chief of Naval Operations the submarine-launched cruise missile would be put "on every submarine," necessitating some 1,000 missiles. In the words of Frank Barnaby, director of the Stockholm International Peace Research Institute (SIPRI), "when the potentialities of the weapon became clear, considerable pressures built for the fastest possible development."

With President Carter's decision to deploy the air-launched cruise missile (ALCM) on B–52s as an alternative to building the B–1, the ALCM has become an integral part of the strategic arsenal. Carter's decision only accelerates the existing momentum of the cruise missile program. For even prior to his decision the Air Force had planned to deploy 1,800 ALCMs and the Navy had planned to deploy 1,200 Tomahawk missiles on both submarines and surface ships. It remains to be seen, however, whether the Tomahawk program, which embraces sea-launched cruise missiles (SLCM) and ground-launched cruise missiles (GLCM), will be used as a bargaining chip in SALT II. Flight testing of the Tomahawk is moving forward though, making any agreement with the Soviets to allow the air-launched cruise missiles but not the sea- or ground-launched ones extremely difficult.

Thus, what Henry Kissinger viewed as an additional psychological bargaining chip for SALT II has led to the imminent deployment of the ALCM and the likely deployment of naval and ground-launched cruise missiles. "How was I to know," Kissinger lamented, "the military would come to love it?"

This is a lesson the Secretary could have learned long ago. But with the love affair begun, Kissinger had to deal with the difficult issues of cruise missiles in the SALT II negotiations in a more complex way than he may have originally envisaged. He had to bargain on the cruise missile with both the Soviets and the Pentagon. An even more complex situation confronts his successor as some of our NATO allies have become enthralled with the potential of the cruise missile for use in theater defense.

Whether or not one believes today that the cruise missile is a useful weapon to add to our arsenal, the point of particular interest is the origin of this program.

Not only may the bargaining chip concept serve to hasten the development of weapons which complicate arms control; but it is, from the standpoint of weapons acquisition, a method of developing new weapons without thinking through their implications. The cruise missile, like any other weapon, should be added to the arsenal only because responsible officials see a genuine strategic need for it, and not because of bureaucratic or technological momentum. At every stage a weapons system must be examined for its impact on strategic doctrine, verification and proliferation. The bargaining chip rationale is too weak to be used to justify the deployment of a new weapon. Developing a weapon chiefly as a bargaining chip will allow constituencies to build up around that weapon, constituencies that will press for its deployment.

Weapons which may be the subject of arms control negotiations and may serve as bargaining chips should be kept in research and development and away from the testing stage as long as is feasible. Secretary Kissinger stated in 1975 that he wished he "had thought through the implications of the MIRVed world more fully in 1969 and 1970." Weapons, like MIRV, are useful only as threatened deployments. Once tested such weapons cease to be bargaining chips; they become a part of the arsenal that cannot be distinguished from the rest by national verification.

The new more highly accurate warhead system, MARV, will not be verifiable once tested and would, like MIRV, force the Soviets to develop their own version of this counterforce weapon. As Paul Warnke observed several years ago, "the threat of deployment might energize diplomacy but the fact of deployment would defeat it."

Another major problem of the bargaining chip is that it is difficult for the military to develop a weapon just to see it be bargained away. As with MIRV and the cruise missile, the tendency is to view new weapons as an integral part of the arsenal. As Jack Ruina has said: "It is hard to think of an arms program that simultaneously is good enough to worry an opponent and bad enough for the military to be willing to give it up in negotiations."

If President Carter continues to use the bargaining chip approach, he would be well advised to proceed with extreme care. He should avoid developing weapons whose only purpose is to be bargained away. To develop a weapon without seeing a place for it in the arsenal is a concept which the military finds difficult to comprehend. Second, bargaining chips should be kept under tight control, so that the point of no return—frequently the flight-testing stage—is not reached by inadvertence. Finally, the President must realize that bargaining chips can slip out of control and serve to stimulate the weapons acquisition process, and not to promote the arms talks. If this should occur, he will find himself raising the level of intragovernmental bargaining and reducing his own hopes for achieving genuine arms reduction.

IN MEMORY OF LOUISE STITT

Mr. METZENBAUM. Mr. President, I rise today to express my sorrow at the death of Louise Stitt, a great Ohioan who devoted her long and productive life to the struggle to enact Federal minimum wage legislation.

In the 1920's, Louise Stitt became the first woman to teach labor economics at the Ohio State University. She was a highly competent economist, but her concerns extended far beyond the traditional boundaries of economic theory. She was concerned with economic realities, with the long hours, low wages and dangerous working conditions then prevalent in much of American industry. She saw the need for change and she was determined to do something about it.

She was not alone. There were many people, among them a number of well-educated and comparatively well-to-do women, who felt the same need to remedy the appalling conditions they saw around them. These women went into factories and shops in the early decades of this century. They asked hard questions and they followed up with reports, legal briefs and public meetings.

Eleanor Roosevelt was one of these women, as was former Secretary of Labor Frances Perkins. Louise Stitt was another. Their organization, the National Consumers League for Fair Labor Standards, took the lead in organizing consumers to press for improved working conditions for the people who made the goods they purchased.

In the early 1930's, Ms. Stitt left her university position to become Ohio's director of minimum wage. Subsequently, she was one of the exceptionally able women recruited by Mary Anderson to staff the newly-founded Women's Bureau of the Department of Labor. In that capacity, she played a major role in helping the States to establish wage boards and to administer State minimum wage laws. The Women's Bureau at that time also sent investigators into the field to report on wages and working conditions of women employed in offices and beauty shops. They had no power of subpena. They could only ask to examine records. But in most cases, they got the information they needed.

Their efforts contributed to the growth of support for Federal minimum wage and maximum hours legislation. The Fair Labor Standards Act was finally enacted in 1938, setting the minimum wage at 25 cents per hour.

Louise Stitt worked through the 1930's and 1940's in the Women's Bureau on the endless task of upgrading wages and working conditions. After her retirement, she remained an active advocate of legislative action on behalf of low wage employees.

The 1950's were dry legislative years, but Ms. Stitt never abandoned her efforts. She worked closely with women's organizations and civil rights and religious action groups to call public attention to the minimum wage issue. Dorothea de Schweinitz, another National Consumers League economist, and Dean Francis B. Sayre, Jr., of the National Cathedral in Washington were her close associates.

Finally, in 1959, the Congress considered new minimum wage legislation. Senator John F. Kennedy chaired hearings before the Labor Subcommittee. When Eleanor Roosevelt was invited to testify at these hearings, she called upon Ms. Stitt to help prepare her testimony.

Since 1971, Ms. Stitt has lived in a retirement home in her native Columbus, Ohio. She died there on September 9. She was buried while the Congress was

again considering minimum wage legislation.

Mr. President, I believe that all Americans owe a debt of gratitude to Louise Stitt and to the many others like her who gave so freely of their time and talent to promote justice for working men and women. I mourn her passing, but I am pleased that she was able to see so many of the reforms she pioneered enacted in her lifetime. She could have no better monument than the solid body of legislation that now exists to protect the rights of those most vulnerable to economic exploitation.

REPORT ON LEGISLATION TO CREATE ABORIGINAL HAWAIIAN CLAIMS SETTLEMENT STUDY COMMISSION

Mr. MATSUNAGA. Mr. President, on October 20 of this year, this body approved a measure, Senate Joint Resolution 4, which, as I stated at that time and here and now reiterate, is considered by many of the people of my Aloha State to be the most important proposal currently pending before the U.S. Congress. Senate Joint Resolution 4 seeks to establish an Aboriginal Hawaiian Claims Settlement Study Commission to address the tragic events of 1893, when the lawful monarchy of Hawaii was overthrown by a small group of non-Hawaiian residents of the islands, aided by representatives of the United States. The commission's mandate would be to conduct an exhaustive study of the unanswered claims of Aboriginal Hawaiians arising from those events, and report back to Congress its recommendation for remedial legislation.

The bill, supported by the entire Hawaii congressional delegation, had been ordered reported by the Senate Committee on Energy and Natural Resources 10 days earlier. The committee's report on the bill stands as the most concise document presently available regarding the history of the claim, the reasons for which the possibility of reparatory legislation is being pursued, and the approach to the problem which the delegation is taking. It also contains in its entirety the moving December 18, 1893 message to the Congress of then President Grover Cleveland, wherein he condemns the participation of U.S. Representatives in the so-called revolution of 1893, and urges that action be taken to remedy the wrong.

Because of the great interest in the legislation, the committee report is in such demand that already the regular printing has been exhausted. So that I may make this important document more widely available to my constituency and others, as well as call greater attention to the simple justice of the claim, I ask unanimous consent that the selections from the text of Senate report 95-501 be printed in the RECORD.

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

I. PURPOSE

In the year 1893, the U.S. Minister accredited to the independent Kingdom of Hawaii, the naval representative of the United States in Hawaii, acting wholly without the authority or knowledge of the Congress or the President, unlawfully committed and deployed Armed Forces of the United States in support of the overthrow of the lawful Government of Hawaii. This joint resolution (S.J. Res. 4) acknowledges this wrongdoing on the part of representatives of the Government of the United States and the need to make reparation to the Aboriginal Hawaiian people. The purposes of this joint resolution (S.J. Res. 4) are to recognize the validity of claims against the United States by Aboriginal Hawaiian people based on the 1893 incident and to establish an Aboriginal Hawaiian Claims Settlement Study Commission to conduct a study of the culture, needs, and concerns of the Aboriginal Hawaiians; the nature of the wrong committed against, and the extent of the injuries to, the Aboriginal Hawaiians by reason of the 1893 incident; and various means to remedy such wrong. The proposed Study Commission would submit a report of its findings to the Congress and recommend remedies to repair the wrong perpetrated against the Aboriginal Hawaiian people.

II. BACKGROUND AND LEGISLATIVE HISTORY

Senate Joint Resolution 4 represents the first step toward redressing a wrong committed against the Aboriginal Hawaiian people some 83 years ago. The incident forming the basis for the Aboriginal Hawaiian claims recognized by this legislation is described in full in a message to the Congress by President Grover Cleveland, December 18, 1893. The message is set forth in the Executive Communications sections of this report. The facts of that incident and subsequent pertinent events are as follows:

Hawaii came to the attention of the Western world with its "discovery" in 1778 by Capt James Cook of the British Navy.

The Kingdom of Hawaii was established in 1795 with the unification of the Hawaiian Islands by Kamehameha I.

In 1848, Kamehameha III decreed a major redistribution of land ownership in Hawaii known as the Great Mahele. Under the Great Mahele, the lands were divided as follows: 1 million acres to the King as his personal property (the crown lands); 1.5 million acres to the Kingdom of Hawaii (the Government lands); 1.5 million acres to 240 high ranking chiefs; and 30,000 acres to commoners.

Early in 1893, a group of non-Hawaiian residents of Hawaii desiring the annexation of Hawaii to the United States organized as the Committee of Safety with their goal the overthrow of the Kingdom of Hawaii.

In support of the committee, the U.S. Minister and the naval representative of the United States caused U.S. Marines from the U.S.S. *Boston*, lying at anchor in Honolulu Harbor, to be landed in Honolulu on January 16, 1893, without the authorization of the Hawaiian Government.

Queen Liliuokalani, monarch of Hawaii, was deposed by the Committee of Safety. The Queen stated that she was resigning under protest, with the belief that she would be reinstated once the United States became cognizant of the circumstances of her overthrow. However, the U.S. Minister to Hawaii, John L. Stevens, recognized the Provisional Government of Hawaii immediately after the overthrow of the Queen.

A draft treaty of annexation, worked out by representatives of the Provisional Government of Hawaii and representatives of the United States, was submitted to the Senate on February 14, 1893, by President Harrison.

New President Grover Cleveland, upon hearing conflicting reports regarding the circumstances of the change in governments in Hawaii and possible U.S. participation in the change, withdrew the proposed treaty of annexation from the Senate, and appointed James Blount of Georgia, former chairman of the House Committee on Foreign Relations, Special Commissioner to travel to Hawaii and report back to him on the Hawaii situation.

Commissioner Blount arrived in Honolulu in March 1893, to undertake his study. Based on Blount's study, Secretary of State Walter Q. Gresham reported to the President that Minister Stevens had helped to overthrow the Hawaiian monarchy. He advised Cleveland not to put the treaty of annexation before the Senate again, and suggested that the monarchy be restored. He wrote in his report: "Her (Liliuokalani's) submission was thus coerced (by the actions of Minister Stevens and the troops from the *Boston*). The affair was discreditable to all who engaged in it. It would lower our national standard to endorse a selfish and dishonorable scheme of a lot of adventurers."

On July 15, 1893, a petition for redress of grievances was presented to the U.S. Government by the Hawaiian Patriotic League on behalf of the Aborigional Hawaiians.

President Cleveland, in a message to Congress on December 18, 1893, on the Hawaiian issue, stated:

"* * * by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the Government of a feeble, friendly and confiding people has been overthrown. * * * a substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair * * * the United States cannot fail to vindicate its sense of justice by an earnest effort to make all possible reparation."

On July 4, 1894, leaders of the Provisional Government of Hawaii proclaimed the establishment of the Republic of Hawaii, and assumed ownership of the Government and crown lands without compensation.

Exactly 4 years later, President McKinley signed a treaty annexing Hawaii to the United States. Under the treaty, the Republic of Hawaii ceded and transferred to the United States "the absolute fee and ownership of all public, Government and crown lands * * * belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereto appertaining."

Thereafter, on June 19, 1900, Hawaii became the Territory of Hawaii through enactment of the Hawaii Organic Act.

The Hawaiian Homes Commission Act was signed into law July 9, 1921, (42 Stat. 108, as amended), addressing the belief that the Hawaiian people had to a great extent been alienated and separated from their historical domain to such a degree that they were in danger of becoming extinct as a direct culture, the statute set aside 203,500 acres of Hawaii land for the use of Native Hawaiians.

On August 20, 1959, Hawaii became the 50th State of the Union.

The history of this incident shows that U.S. interests opposed Queen Liliuokalani's efforts to regain her throne and restore the Kingdom of Hawaii. The Kingdom was succeeded by a provisional government, which later transformed itself into the independent Republic of Hawaii intent upon the later annexation of Hawaii to the United States, which was finally consummated in 1898. The Constitution of the Republic expropriated the crown lands without compensation and made them available for purchase by westerners. Because of the unauthorized involvement of official representatives of the United States in the internal affairs of an independent, friendly government, the Aboriginal Hawaiians lost their self-government, their rights to Crown and government lands, and other less material but no less important aspects of their civilization. A tragic conse-

quence has been the aggravation of a trend toward demoralization and alienation of the Aboriginal Hawaiian people from their former national, cultural, and individual identity. In many ways they have become strangers in their own land, a situation similar to that of the American Indians.

History also makes it clear that in yielding to the superior forces of the United States to avoid bloodshed, Queen Liliuokalani did so in anticipation that the United States would eventually act to remedy the wrong committed in its name. A claim for repair of the wrong done to the Hawaiian people was submitted to the U.S. Government by the Queen. A petition for redress of grievances was presented to our Government on July 15, 1893 by the Hawaiian Patriotic League on behalf of the Aboriginal Hawaiians. Neither claim was honored. President Cleveland's hope for a legislative plan to redress the wrong perpetrated in the name of the United States has never been realized.

The efforts to obtain congressional consideration of the plight of Aboriginal Hawaiians began on June 27, 1974, when U.S. Representatives Spark Matsunaga and Patsy Mink introduced H.R. 15666, the proposed Hawaiian Native Claims Settlement Act. The bill would have established an Hawaiian Native Claims Settlement Corporation to receive benefits from an immediate settlement involving both land and funds. The following year, Representative Matsunaga and Mink reintroduced the bill as H.R. 1944 for the consideration of the 94th Congress. In February, 1975, the Subcommittee on Indian Affairs of the House Committee on Interior and Insular Affairs held field hearings on H.R. 1944.

The Senate began consideration of the Aboriginal Hawaiian claims issue with the introduction of Senate joint resolution 155 by Senator Daniel K. Inouye on December 18, 1975. Rather than providing an immediate settlement of the claims, the resolution would have established a commission to conduct a comprehensive investigation of the claims issue and to report back to the Congress with recommendations for a remedy within 1 year. The Senate Committee on Interior and Insular affairs held field hearings on Senate Joint Resolution 155 in February, 1976. The resolution was reported with an amendment by the committee on September 29, 1976.

Senate Joint Resolution 4, identical to Senate Joint Resolution 155, as reported by the Interior Committee, was introduced on January 10, 1977. Field hearings were held on the measure by the Public Lands and Resources Subcommittee on July 6 and 7, 1977.

Through its hearings and markups of the resolutions last year and this year, the committee has apprised itself of the historic well-documented affair which gave use to the Aboriginal Hawaiian claims. The overthrow of the Hawaiian Kingdom is a dark chapter in American diplomatic and military history, made darker still by the long failure of the Congress to consider the wrong the United States had committed and to answer President Cleveland's call to repair that wrong. By enactment of Senate Joint Resolution 4, the Congress would establish a procedure for determining what, if any, action the Congress can take to finally settle the claims of the Aboriginal Hawaiians. The recommendations submitted to the Congress by the Aboriginal Hawaiian Claims Settlement Study Commission cannot substitute for the congressional determination, but are expected to assist the Congress in making that determination.

III. NEED

In the consideration of the Aboriginal Hawaiian claims issue, four traditional approaches to settlement of Native claims were considered: use of the Court of Claims; use of the Indian Claims Commission; passage of a special jurisdictional act; and passage of a settlement act.

The Court of Claims appeared an unlikely vehicle for settling Aboriginal Hawaiian claims. Although the Court of Claims once had jurisdiction to hear claims of Indian tribes, that jurisdiction was removed from the court in 1863. In any case, Aboriginal Hawaiians do not constitute an Indian tribe. In addition, any action brought in the Court of Claims by the Aboriginal Hawaiians based on the court's continuing jurisdiction over claims against the United States founded upon the Constitution would likely be unsuccessful as it is doubtful that a fifth amendment taking could be established. (Judicial doctrine does not afford fifth amendment rights to "aboriginal title". Only land taken in violation of treaty terms is regarded as a fifth amendment taking. Proponents of an Aboriginal Hawaiian claims settlement argue that the question of whether Native land taken illegally from a sovereign power is a constitutional taking is *sui generis*.) Furthermore, any claim so made before the Court of Claims would probably be time-barred under the statutory requirement that claims be filed within 6 years of their accrual.

The Indian Claims Commission does not possess the same problems as a possible situs for settling Aboriginal Hawaiian claims in that the Indian Claims Commission Act allows claims on ethical as well as legal grounds and it waives defenses based on the passage of time. However, the act would have to be amended to permit the bringing of the Aboriginal Hawaiian claims because the act applies only to claims of Indians or Natives on the mainland or in Alaska. Additionally, the Commission does not have the capacity to consider such claims in that it has had its life already extended on four occasions in order to complete its case load and it now has only 1 more year and one quarter of its dockets yet to go (and of those, approximately 150 dockets, 50 involve complex accounting issues).

The use of special jurisdictional acts was always the least popular and most inefficient method of resolving Indian claims. For example, at least one tribe was required to wait 71 years until litigation had been completed and the awards made. These problems were the principal reason why special jurisdictional acts, made necessary when jurisdiction was removed from the Court of Claims in 1863, were eliminated by the Congress in 1946 in favor of the Indian Claims Commission.

The final approach to settlement is through passage of a settlement act. This approach, best exemplified by the Alaska Native Claims Settlement Act, avoids the detailed factfinding concerning such matters as the value of the land at the time of Government taking which has complicated the settlement of Indian claims by other means.

As evidenced by its action on the Alaska Native Claims Settlement Act in 1971, the Committee on Energy and Natural Resources believes congressional enactment of a settlement act is the best method of fashioning a settlement of legitimate native claims. The committee believes, however, that the determination of a proper settlement can be made only on a detailed factual base. The committee, in its consideration of the Alaska Native Claims Settlement Act, was indebted to the work of another commission. On March 8, 1968, the chairman, wrote the Federal Field Committee for Development Planning in Alaska asking that the Commission study Alaska Native land claims.

The report on that study, Alaska Natives and The Land, provided the necessary information to legislate the settlement act. As no such commission presently exists in Hawaii, Senate Joint Resolution 4 would establish one and ask it to conduct the study to provide the groundwork necessary for a future Congress to consider what, if any, settlement can be fashioned for the Aboriginal Hawaiian people.

IV. COMMITTEE AMENDMENTS

During markup, the committee agreed to an amendment in the nature of a substitute to Senate Joint Resolution 4. The substituted resolution amends the title, the preamble, and the text of the joint resolution. The title was amended to substitute "aboriginal" for the term "native" in order to accommodate a preference expressed by supporters of the legislation. The preamble was restated, in part, in order to conform it to language contained in President Grover Cleveland's message to the Congress of December 18, 1893, and to conform it to the resolution as retitled by the committee.

The significant amendments to Senate Joint Resolution 4 are:

1. *Membership on the Commission*, Sec. 2(b)(1). The Committee increased the size of the Commission from 11 to 15 members and increased from six to eight the number of members to be appointed by the Governor of Hawaii. Additionally, the committee provided that each of the islands of Hawaii, Kuai, Lanai, Maui, Molokai, and Oahu shall be represented on the Commission by at least one member of aboriginal blood who is an inhabitant of that island.

2. *Commission Study*, Sec. 3. The committee provided that the Commission should hold public hearings in order to further the study of the wrongs committed against the aboriginal Hawaiians, with advance notice and information regarding the public hearings. Additionally, the committee provided that a draft report of the findings of the study would be available to the public within 1 year of enactment of the resolution. The public would then have 6 months in which to comment on the report before it is submitted to the Congress. Originally, section 3 called for submission of the final report, without publication of a draft, within 1 year.

3. *Commission Recommendations*, Sec. 4. The committee made several minor word changes in section 4 to provide the Commission with the utmost flexibility in making its recommendations.

4. *Authorization*, Sec. 7. The committee authorized appropriations necessary to carry out the provisions of this resolution beginning in fiscal year 1979 and thereafter. The committee added a provision permitting the expenditure of appropriated funds for appearances of Commissioners before the Congress after the Commission's termination.

V. SECTION-BY-SECTION ANALYSIS

Congressional findings

Sec. 1 contains findings that in 1893, the U.S. Minister to the Kingdom of Hawaii unlawfully conspired with a group of U.S. citizens to overthrow the Kingdom; that U.S. Armed Forces participated in the overthrow; that President Grover Cleveland, in a December 18, 1893, message to Congress, denounced this action and indicated his belief that the United States had an obligation to endeavor to "make all possible reparation" for this wrong; that Oueen Liliuokalani made such application for redress on behalf of Native Hawaiians; that the United States acquired ownership of Aboriginal Hawaiian lands obtained from Aboriginal Hawaiians through the overthrow in the 1898 annexation of Hawaii; and that the wrongs done Aboriginal Hawaiians have not yet been repaired.

Declaration of purpose

Sec. 1 also declares that the Congress, while it recognizes that any action it might take cannot be a sufficient remedy for these wrongs, desires to see whether a remedy can be fashioned, and wishes to be advised on

this matter by a commission of Aboriginal Hawaiians and other citizens.

Section 2. Aboriginal Hawaiian Claims Settlement Study Commission

Subsection 2(a) provides for the creation of the Aboriginal Hawaiian Claims Settlement Study Commission.

Subsection 2(b) provides that the Commission shall be composed of 15 members appointed by the President, eight of them from a list of 18 proposed by the Governor of Hawaii; that nine shall be Aboriginal Hawaiians, three of 50 percent or more native blood, three of 25 percent or more native blood, and three of any degree of native blood; that one Aboriginal Hawaiian shall represent each of the six major Hawaiian islands, and one Aboriginal Hawaiian shall be a U.S. citizen not a resident of Hawaii; and that the President is to consult with the Aboriginal Hawaiian community and the Governor of Hawaii with regard to his appointments. The Commission is to elect a chairman and vice chairman from their membership. A quorum for the Commission is eight, but a smaller number can conduct hearings. The Commission members are to receive $100 per day while on Commission business, plus travel and expenses.

Under Subsection 2(c), the President is required to call the first meeting of the Commission no later than 60 days after the approval of this resolution.

Subsection 2(d) authorizes the Chairman of the Commission to appoint an executive director and general counsel and other necessary staff to the Commission and specifies certain conditions with regard to their employment. Temporary services to the Commission are to be provided at a rate of no more than $100 per day.

Subsection 2(e) provides an authorization for Federal agencies to assist the Commission.

Section 3. Duties of the Commission

Subsection 3(1) requires the Commission to conduct a study of the "culture, needs and concerns" of Aboriginal Hawaiians, including the wrong committed against and the extent of the injuries to Aboriginal Hawaiians as a result of the events of 1893, and possible means of remedying those wrongs.

Subsection 3(2) directs the Commission to conduct public hearings as it deems necessary, but no less than one each on the six major Hawaiian islands and one elsewhere in the United States.

Subsection 3(3) provides that the Commission shall make available public information with regard to its study.

Subsection 3(4) requires the Commission to issue a draft report on its study within 1 year of the enactment of the resolution.

Subsection 3(5) and (6) direct the Commission to submit to the President, the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs a final report 6 months after publication of its draft report.

Section 4. Commission recommendations

Subsection 4(a) specifies that the Commission must consider, among other things, the utilization of funds in a manner which benefits Aboriginal Hawaiians; the provision of land, including the surplusing of Federal lands; any other recommendations the Commission may deem necessary with regard to land and funds; the preservation of the Aboriginal Hawaiian lifestyle and the education of Aboriginal Hawaiians as goals of the remedy; the degree to which blood quantum or other requirements should determine eligibility for benefits under the recommended remedy; the manner in which the recommended remedy is to be administered; and any other matters the Commission may deem desirable to be included in any subsequent remedy.

Subsection 4(b) provides that the Commission's recommendations are to be designed to assure, to the extent possible, that any subsequent remedy be a final settlement of Aboriginal Hawaiian claims arising out of the events of 1893; be expeditiously implemented with a minimum of litigation; address the real needs of Aboriginal Hawaiians; assures the maximum participation of Aboriginal Hawaiians; creates no wardship or trusteeship; does not detract from Aboriginal Hawaiians' basic rights of citizenship; and does not relieve the United States of its responsibility to Aboriginal Hawaiians as citizens.

Section 5. Termination of the Commission

Section 5 provides that the Commission will cease to exist within 60 days after its submission of its final report, except with regard to the sections of the resolution which provide the authority under which funds may be expended to provide for the appearance of former Commissioners before the Congress regarding Congress' consideration of the recommended remedy.

Section 6. Savings clauses

Section 6 provides that the bill is not to be construed as conferring jurisdiction to sue or as granting Aboriginal Hawaiians with consent to sue the United States with respect to claims arising from the events of 1893 and is not to be construed as granting a precedent for any Native American to reopen any past settlement of like claims. These savings clauses are similar to those contained in the Alaska Native Claims Settlement Act.

Section 7. Authorization

Subsection 7(a) provides for the appropriation of such funds in fiscal years 1979 and 1980 as may be necessary to carry out the purposes of the bill. It also provides that until such funds from the contingency fund of the Senate upon vouchers approved by the chairman, the fund to be reimbursed later with regularly appropriated funds.

Subsection 7(b) authorizes the Secretary of the Treasury to set aside a portion of appropriated funds to provide for the appearance of Commissioners before the Congress after the termination of the Commission.

VI. COST AND BUDGETARY CONSIDERATION

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–150, 91st Congress) the committee provides the following estimate of the cost of Senate Joint Resolution 4, prepared by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 14, 1977.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for Senate Joint Resolution 4, a joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

OCTOBER 14, 1977.

1. Bill number: Senate Joint Resolution 4.

2. Bill title: Joint resolution establishing the Aboriginal Hawaiian Claims Settlement Study Commission, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on October 10, 1977.

4. Bill purpose: The proposed legislation establishes a 15 member commission to study remedies for a wrong committed by the U.S. Government against native Hawaiians in 1893. This is authorizing legislation which requires subsequent appropriation action. Such sums as are necessary to carry out the provisions of this resolution are authorized to be appropriated for fiscal year 1979 and fiscal year 1980. Payment from the Senate contingent fund are authorized until such appropriations are made.

5. Cost estimate: By fiscal years.

Fiscal year:	*Thousands*
1978	$190
1979	571
1980	96
1981	
1982	

Pursuant to section 7(a) of the resolution, Commission expenses will be paid out of the Senate contingent fund until specific appropriations are made, as authorized in the resolution, for fiscal years 1979 and 1980.

The costs of this bill fall within budget function 800.

6. Basis of Estimate: For the purpose of this estimate, it is assumed that this legislation is enacted April 1, 1978, and that the Commission begins its work 60 days thereafter.

The Commission is assumed to have a one and a half year life. In order to estimate the costs of this legislation, assumptions were made about the likely activities of the Commission, and a budget for these activities was developed. These assumptions are based on the historical experience of similar programs. In addition to the legislatively stated number of commissioners (15), it is assumed that there will be nine professional staff members (including an executive director and a counsel) and five administrative support personnel. The estimated costs of the commission are: personnel compensation and benefits—$683,000; travel and transportation—$85,000; other overhead— $89,000.

This cost estimate addresses only the costs of the Commission and does not consider the cost of any proposed remedy. The remedy will require additional, specific legislative action.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Terry A. Nelson (225–7760).

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VII. COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on October 10, 1977, by unanimous voice vote of a quorum present recommends that the Senate pass Senate Joint Resolution 4, as amended.

VIII. EXECUTIVE COMMUNICATIONS

There were no executive communications received by the committee regarding Senate Joint Resolution 4. Set forth below is the text of the message to Congress of December 12, 1893, by President Cleveland:

"A brief statement of the occurrences that led to the subversion of the constitutional Government of Hawaii in the interests of annexation to the United States will exhibit the true complexion of that transaction.

"On Saturday, January 14, 1893, the Queen of Hawaii, who had been contemplating the proclamation of a new constitution, had, in deference to the wishes and remonstrances of her cabinet, renounced the project for the present at least. Taking this relinquished purpose as a basis of action citizens of Honolulu numbering from 50 to 100, mostly resi-

dent aliens, met in a private office and selected a so-called committee of safety, composed of 13 persons, seven of whom were foreign subjects, and consisted of five Americans, one Englishman, and one German. This committee, though its designs were not revealed, had in view nothing less than annexation to the United States, and between Saturday, the 14th, and the following Monday, the 16th of January—though exactly what action was taken may not be clearly disclosed—they were certainly in communication with the United States minister. On Monday morning the Queen and her cabinet made public proclamation, with a notice which was specially served upon the representatives of all foreign governments, that any changes in the constitution would be sought only in the methods provided by that instrument. Nevertheless, at the call and under the auspices of the committee of safety, a mass meeting of citizens was held on that day to protest against the Queen's alleged illegal and unlawful proceedings and purposes. Even at this meeting the committee of safety continued to disguise their real purpose and contented themselves with procuring the passage of a resolution denouncing the Queen and empowering the committee to devise ways and means "to secure the permanent maintenance of law and order and the protection of life, liberty, and property in Hawaii." This meeting adjourned between 3 and 4 o'clock in the afternoon. On the same day, and immediately after such adjournment, the committee, unwilling to take further steps without the cooperation of the U.S. minister, addressed him a note representing that the public safety was menaced and that lives and property were in danger, and concluded as follows:

"We are unable to protect ourselves without aid, and therefore pray for the protection of the U.S. forces.

"Whatever may be thought of the other contents of this note, the absolute truth of this latter statement is incontestable. When the note was written and delivered the committee, so far as it appears, had neither a man nor a gun at their command, and after its delivery they became so panic-stricken at their position that they sent some of their number to interview the minister and request him not to land the U.S. forces till the next morning. But he replied that the troops had been ordered and whether the committee were ready or not the landing should take place. And so it happened that on the 16th day of January 1893, between 4 and 5 o'clock in the afternoon, a detachment of marines from the U.S. steamer *Boston*, with two pieces of artillery, landed at Honolulu. The men, upward of 160 in all, were supplied with double cartridge belts filled with ammunition and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies.

"This military demonstration upon the soil of Honolulu was of itself an act of war, unless made either with the consent of the Government of Hawaii or for the *bone fide* purpose of protecting the imperiled lives and property of citizens of the United States. But there is no pretense of any such consent on the part of the Government of the Queen, which at that time was undisputed and was both the *de facto* and the *de jure* Government. In point of fact the existing Government, instead of requesting the presence of an armed force, protested against it. There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace.

"Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for the protection of American citizens, whose residences and places of business, as well as the legation and consulate, were in a distant part of the city; but the location selected was a wise one if the forces were landed for the purpose of supporting the Provisional Government. If any peril to life and property calling for any such martial array had existed, Great Britain and other foreign powers interested would not have been behind the United States in activity to protect their citizens. But they made no sign in that direction. When these armed men were landed the city of Honolulu was in its customary orderly and peaceful condition. There was no symptom of riot or disturbance in any quarter. Men, women, and children were about the streets as usual, and nothing varied the ordinary routine or disturbed the ordinary tranquility except the landing of the *Boston's* marines and their march through the town to the quarters assigned them. Indeed, the fact that after having called for the landing of the U.S. forces on the plea of danger to life and property the committee of safety themselves requested the minister to postpone action exposed the untruthfulness of their representations of present peril to life and property. The peril they saw was an anticipation growing out of guilty intentions on their part and something which, though not then existing, they knew would certainly follow their attempt to overthrow the Government of the Queen without the aid of the U.S. forces.

"Thus it appears that Hawaii was taken possession of by the U.S. forces without the consent or wish of the Government of the islands, or of anybody else so far as shown except the U.S. minister. Therefore the military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property. It must be accounted for in some other way and on some other ground, and its real motive and purpose are neither obscure nor far to seek.

"The U.S. forces being now on the scene and favorably stationed, the committee proceeded to carry out their original scheme. They met the next morning, Tuesday, the 17th, perfected the plan of temporary government, and fixed upon its principal officers, 10 of whom were drawn from the 13 members of the committee of safety. Between 1 and 2 o'clock, by squads and by different routes to avoid notice, and having first taken the precaution of ascertaining whether there was anyone there to oppose them, they proceeded to the Government building to proclaim the new Government. No sign of opposition was manifest, and thereupon an American citizen began to read the proclamation from the steps of the Government building, almost entirely without auditors. It is said that before the reading was finished quite a concourse of persons, variously estimated at from 50 to 100, some armed and some unarmed, gathered about the committee to give them aid and confidence. This statement is not important, since the one controlling factor in the whole affair was unquestionably the U.S. marines, who, drawn up under-arms and with artillery in readiness only 76 yards distant, dominated the situation.

"The Provisional Government thus proclaimed was by the terms of the proclamation "to exist until terms of union with the United States had been negotiated and agreed upon." The U.S. minister, pursuant to prior agreement, recognized this Government within an hour after the reading of the proclamation, and before 5 o'clock, in answer to an inquiry on behalf of the Queen and her cabinet, announced that he had done so.

"When our minister recognized the Provisional Government, the only basis upon which it rested was the fact that the committee of safety had in the manner above stated declared it to exist. It was neither a government *de facto* nor *de jure*. That it was not in such possession of the Government property and agencies as entitled it to recognition is conclusively proved by a note found in the files of the legation at Honolulu, addressed by the declared head of the Provisional Government to Minister Stevens, dated January 17, 1893, minister's recognition of the Provisional Government, and states that it is not yet in the possession of the station house (the place where a large number of the Queen's troops were quartered), though the same had been demanded of the Queen's officers in charge. Nevertheless, this wrongful recognition by our minister placed the Government of the Queen in a position of most perilous perplexity. On the one hand she had possession of the palace, of the barracks, and of the police station, and had at her command at least 500 fully armed men and several pieces of artillery. Indeed, the whole military force of her Kingdom was on her side and at her disposal, while the committee of safety, by actual search, had discovered that there were but very few arms in Honolulu that were not in the service of the Government.

"In this state of things, if the Queen could have dealt with the insurgents alone, her course would have been plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice. Accordingly, some hours after the recognition of the Provisional Government by the U.S. minister, the palace, the barracks, and the police station, with all military resources of the country were delivered up by the Queen upon the representation made to her that her cause would thereafter be reviewed at Washington, and while protesting that she surrendered to the superior force of the United States, whose minister had caused U.S. troops to be landed at Honolulu and declared that he would support the Provisional Government, and that she yielded her authority to prevent collision of armed forces and loss of life, and only until such time as the United States, upon the facts being presented to it, should undo the action of its representative and reinstate her in the authority she claimed as the constitutional sovereign of the Hawaiian Islands.

"This protest was delivered to the chief of the Provisional Government, who endorsed thereon his acknowledgment of its receipt. The terms of the protest were read without dissent by those assuming to constitute the Provisional Government, who were certainly charged with the knowledge that the Queen, instead of finally abandoning her power, had appealed to the justice of the United States for reinstatement in her authority; and yet the Provisional Government, with this unanswered protest in its hand, hastened to negotiate with the United States for the permanent banishment of the Queen from power and for a sale of her Kingdom.

"Our country was in danger of occupying the position of having actually set up a temporary government on foreign soil for the purpose of acquiring through that agency territory which we had wrongfully put in its possession. The control of both sides of a bargain acquired in such a manner is called by a familiar and unpleasant name when found in private transactions. We are not without a precedent showing how scrupulously we avoided such accusations in

former days. After the people of Texas had declared their independence of Mexico they resolved that on the acknowledgment of their independence by the United States they would seek admission into the Union. Several months after the battle of San Jacinto, by which Texan independence was practically assured and established, President Jackson declined to recognize it, alleging as one of his reasons that in the circumstances it became us "to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves." This is in marked contrast with the hasty recognition of a government openly and concededly set up for the purpose of tendering to us territorial annexation.

"I believe that a candid and thorough examination of the facts will force the conviction that the Provisional Government owes its existence to an armed invasion by the United States. Fair-minded people, with the evidence before them, will hardly claim that the Hawaiian Government was overthrown by the people of the islands or that the Provisional Government had ever existed with their consent. I do not understand that any members of this Government claims that the people would uphold it by their suffrages if they were allowed to vote on the question.

"While naturally sympathizing with every effort to establish a republican form of government, it has been the settled policy of the United States to concede to people of foreign countries the same freedom and independence in the management of their domestic affairs that we have always claimed for ourselves, and it has been our practice to recognize revolutionary governments as soon as it became apparent that they were supported by the people. For illustration of this rule I need only to refer to the revolution in Brazil in 1889, when our minister was instructed to recognize the Republic "so soon as a majority of the people of Brazil should have signified their assent to its establishment and maintenance;" to the revolution in Chile in 1891, when our minister was directed to recognize the new Government "if it was accepted by the people," and to the revolution in Venezuela in 1892, when our recognition was accorded on condition that the new Government was "fully established, in possession of the power of the nation, and accepted by the people."

"As I apprehend the situation, we are brought face to face with the following conditions:

"The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

"But for the notorious predilections of the U.S. minister for annexation the committee of safety, which should be called the committee of annexation, would never have existed.

"But for the landing of the U.S. forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government.

"But for the presence of the U.S. forces in the immediate vicinity and in position to afford all needed protection and support the committee would not have proclaimed the Provisional Government from the steps of the Government building.

"And finally, but for the lawless occupation of Honolulu under false pretexts by the U.S. forces, and but for Minister Steven's recognition of the Provisional Government when the U.S. forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the Provisional Government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States.

"Believing, therefore, that the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration, and in the instructions to Minister Willis, a copy of which accompanies this message, I have directed him to so inform the Provisional Government.

"But in the present instance our duty does not, in my opinion, end with refusing to consummate this questionable transaction. It has been the boast of our Government that it seeks to do justice in all things without regard to the strength or weakness of those with whom it deals. I mistake the American people if they favor the odious doctrine that there is no such thing as international morality; that there is one law for a strong nation and another for a weak one, and that even by indirection a strong power may with impunity despoil a weak one of its territory.

"By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. The Provisional Government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that Government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power.

The law of nations is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of a civilized state are equally applicable as between enlightened nations. The considerations that international law is without a court for its enforcement and that obedience to its commands practically depends upon good faith instead of upon the mandate of a superior tribunal only give additional sanction to the law itself and brand any deliberate infraction of it not merely as a wrong, but as a disgrace. A man of true honor protects the unwritten word which binds his conscience more scrupulously, if possibly, than he does the bond a breach of which subjects him to legal liabilities, and the United States, in aiming to maintain itself as one of the most enlightened nations, would do its citizens gross injustice if it applied to its international relations any other than a high standard of honor and morality. On that ground the United States can not properly be put in the position of countenancing a wrong after its commission any more than in that of consenting to it in advance. On that ground it can not allow itself to refuse to redress an injury inflicted through an abuse of power by officers clothed with its authority and wearing its uniform; and on the same ground, if a feeble but friendly state is in danger of being robbed of its independence and its sovereignty by a misuse of the name and power of the United States, the United States can not fail to vindicate its honor and its sense of justice by an earnest effort to make all possible reparation.

"These principles apply to the present case with irresistible force when the special conditions of the Queen's surrender of her sovereignty are recalled. She surrendered, not to the Provisional Government, but to the United States. She surrendered, not absolutely and permanently, but temporarily and conditionally until such time as the facts could be considered by the United States. Furthermore, the Provisional Government acquiesced in her surrender in that manner and on those terms, not only by tacit consent, but through the positive acts of some members of that Government, who urged her peaceable submission, not merely to avoid bloodshed, but because she could place implicit reliance upon the justice of the United States and that the whole subject would be finally considered at Washington.

* * * * *

"In commending this subject to the extended powers and wide discretion of the Congress I desire to add the assurance that I shall be much gratified to cooperate in any legislative plan which may be devised for the solution of the problem before us which is consistent with American honor, integrity, and morality."

GROVER CLEVELAND.

A MATCHLESS NEW BOOK ON WASHINGTON

Mr. MATHIAS. Mr. President, I would like to call my colleagues' attention to a new book on Washington which, in my opinion, is unique in several ways. It is entitled "The City of Washington—An Illustrated History," by the Junior League of Washington.

This book is unusually beautiful. The wraparound jacket—reproducing a watercolor of Washington in the 1870's, with the Chesapeake and Ohio Canal in the foreground—is attractive. But the jacket barely hints of the riches inside. The book has nearly 700 illustrations—photographs, facsimiles of drawings, paintings, maps, and memorabilia of Washington's past—many of them never reproduced before. They are woven together by a lively narrative enriched with excerpts from private journals, snippets of diaries, and pithy tidbits from published memoirs and contemporary newspaper accounts.

The surprising amount of previously unpublished material in "The City of Washington" is easily explained. The book is the work of some 100 members of the Junior League of Washington, who devoted 5 years to the project and had extraordinary access to private collections and sources of information. The result is a handsome treasure trove of fact and lore that provides rare insights into the city which is a second home for all of us.

But, remarkable as the book itself is, it is more remarkable still that it was created entirely by volunteers and that the proceeds from its sale go to charity. Among the charities of the Washington Junior League are the Green Door, where patients released from St. Elizabeth's learn to earn a living: Iona House—a community house for the elderly; Friendship House in southeast Washington, and Children's Hospital.

I urge my colleagues, with Christmas just around the corner, to reflect on what an opportunity they have when they buy "The City of Washington." This book presents Washington in a way that will

enrich the lives of all of us who come from other places to serve in Congress. And, while it does that, each of us can make an indirect contribution to the charitable life of a community from which all of us receive so much and give so little in return.

Mr. President, I am not alone in my judgment on the merits of "The City of Washington." It has received wide and very favorable coverage in the press. I ask unanimous consent that two articles on this book be printed in the RECORD. They are: "The City of Washington Makes Its Debut at a Party" by Betty Beale, Washington Star, August 7, 1977, and "Hail to Thee, Columbia" from the Book World of the Washington Post, October 23, 1977.

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

THE CITY OF WASHINGTON TO MAKE ITS DEBUT AT PARTY

(By Betty Beale)

At last, a book about Washington for the people who love this city, for the people who call it home, not just the political capital of the United States. If Alex Haley had not forever identified one word with his masterpiece, it might have been more aptly described as "Washington and Its Roots." But it is simply called "The City of Washington."

To be published in October by Alfred A. Knopf, it took five years in the making. It covers 350 years of this town's history, from Capt. John Smith's first trip up the Potomac to Jimmy Carter. It uses over 600 photographs plus maps, drawings and other visual material, and much of it has never before been reproduced.

It is the brainchild of Douglas Sprunt, wife of Dr. Worth Sprunt and a former president of the Junior League of Washington, who got the idea while serving on the National Trust Council for Decatur House. She decided it should benefit the Junior League's charities, and she enlisted seven other former Junior League presidents to work on it—Anne Carter Greene, Rose Fales, Christine Willcox, Mimi Crowell, Nancy Goodrich, Judy Frank and Jane Blair.

But "it wasn't conceived as a fundraiser," said Judy Frank. "We could have produced a cheap book and made a lot of money. We wanted a beautiful, dignified book that would show our pride in the city."

Said Doug Sprunt of all the handsome books about Washington, "There was nothing timeless that showed the continuing life of Washington as well as its involvement in the nation." More than 100 members, former members and friends "made it their life's work as the project grew and grew." White House curator Clement Conger was "enormously helpful."

So much material poured in it couldn't all be used. Even a picture of the glass used by Pierre L'Enfant for his last sip of water before dying didn't get in. It looked too much like an ordinary toothbrush glass. It is owned by Mrs. Carroll Morgan, because L'Enfant spent his last days with her late husband's ancestors.

Old diaries and letters make this volume of pictures and detailed captions come alive with quotations. A Belgian woman, a descendant of Stier—the patron of Rubens—and the wife of George Calvert of the Maryland family, wrote back to her brother in 1807 from Riverdale, Md.: "All government officials and a large number of members of Congress being Democrats and for the most part people of low extraction, I do not go there (Washington) often."

Yet that was during the cultivated Thomas Jefferson's administration, and Charles Willson Peale, "the greatest of all the artists in the Peale family," says Conger (his portrait of George Washington in the Oval Office is appraised at $450,000), was at a "very elegant dinner" in the White House in 1804 and noted that "not a single toast was given or called for, or politicks touched on, but the subject of Natural History and improvements of the conveniences of Life. Manners of the different nations described, or other agreeable conversation animated this whole company." . . . If only the White House could get back to that custom instead of 20- to 40-minute political toasts by visting heads of state.

It may come as a surprise to most Washingtonians that the oldest building in this area is the stone wing of a house you can only see in wintertime when driving on Little Falls Parkway. It dates back to 1700 and is believed to have been a Dutch trading post with the Indians. The house, added onto in the middle of the 19th century, belonged to Nathan Loughborough, for whom the road is named, and who came here in 1800 with the new U.S. government. It is currently occupied by the widow of economist Mordecai Ezekiel.

By odd coincidence, Loughborough's townhouse was at 3039 M St., which the Junior League restored for its current headquarters and shop.

And few Washingtonians are aware of one of Georgetown's oldest buildings, Mackell Square, a house that sits on grounds extending from 28th to 29th Street between Q and R. It belongs to three sisters, all IBM heiresses, the Misses Lucia, Nannie and Virginia Hollerith. Miss Lucia was in the class of 1909 at National Cathedral School for Girls, so is in her 80s. The other two are in their 70s.

The maiden ladies themselves live in another more visible house on 29th Street, and are occasionally glimpsed at a Washington function such as a Stratford Hall tea. But Mackell Square, which they rent to Tom and Anna Bradley so their garden will back up to a nice couple's, sits so far back the white pillars of the red brick portion, built in 1820, can barely be seen from 29th Street. The frame sections telescoped onto the rear were built in the 18th century.

The Holleriths' father made his fortune by inventing the computer for the census of 1880, which later became part of IBM. Their grandmother owned the site where the British Embassy is now located, and it was named Normanstone, the name now given to the nearby street off Massachusetts Avenue.

There's a picture in the book of the best-known local cabinetmaker, William King, who started his own shop in Georgetown in 1795, and a photo of the superb breakfront he built that is now in the Sumner House of his Washington descendant and namesake. He also made coffins and started an undertaking business, and one of his "mortality books" reposes on the desk of the breakfront, open at pages that list such names as Clagett, Lowndes, Worthington, Balch and Holmead.

A lumber yard workman who kept a diary of the period (discovered by Dolly Clagett) wrote that between 12 and 41 coffins were made in Georgetown by King during an average six-month period, but during the cholera epidemic of 1832, he made 92 in one month.

There's a hitherto unpublished letter by George Washington written when he returned to Benjamin Dulaney his famous white horse, Blueskin, which Washington had borrowed at the beginning of the American Revolution and rode throughout. In it, he says he is sorry the horse wasn't as frisky as it was when Mr. Dulaney was courting his wife. The letter is owned by his descendant, Capt. Dulaney Clagett, USN, of Spring Valley.

There's a picture of the original house on Kalorama dated 1790, which was then on S Street near where the Woodrow Wilson House is now. It was owned by Anthony Holmead, who also owned much of Northwest Washington—all the land from P Street to where Soldiers' Home is and west to Rock Creek Park. His descendant by the same name, who lives in nearby Maryland, produced a letter of 1754 addressed to Anthony Holmead, Patawomeck, which reached him. The latter was an early spelling of the Potomac River, which natives of Washington never mispronounce "Potomick" as it's always called on television. Real Washingtonians call the river "Potomuck."

Before he died within the past year, Charles Carroll Glover, who owned the big Westover estate on Massachusetts Avenue opposite the Berkshire and Greenbriar Apartments, taped early recollections of Washington that wind up in the book's captions. When he was a boy, to get from the Glovers' Lafayette Square house to their country estate by coach, it was necessary to go via Pennsylvania Avenue to Georgetown and up Wisconson, or on horseback down the ravine to Rock Creek, because there was no Massachusetts Avenue bridge now near the Mosque. In those days, the Chevy Chase Club Hunt rode to the hounds all the way from 14th Street to Massachusetts Avenue.

"The City of Washington" will make its debut at a party to be given by the Averell Harrimans on Sept. 28. Pamela Harriman is on the honorary committee of the Junior League's Christmas Shop this year (Clem Conger is honorary chairman), where copies of the book sold will bring one-half the $25 purchase price to the league's charities in Washington. Otherwise, the league will get only $1 per copy for royalties. Judy Frank said that Knopf's, however, was being fair, because the costs of publishing it had been enormous. They hired a special editor who had been with American Heritage and got the best art man in the business to do the art work.

Among the league's charities to benefit will be the Green Door, where patients released from St. Elizabeth's learn to earn a living; Iona House—a community house for the elderly; Friendship House in Southeast, Children's Hospital, Planned Parenthood and on through a list of worthwhile causes. "The City of Washington" will benefit the city of Washington.

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HAIL TO THEE, COLUMBIA

(By F. C. Rosenberger)

(The City of Washington: An Illustrated History. By The Junior League of Washington. Edited by Thomas Froncek. Knopf. 384 pp. $25.)

The other Washington—the one beyond Capitol Hill—also has a history of its own.

Several years ago the historian Kenneth R. Bowling observed: "Even granting the nationalness of its localness, one does not remain long in the national capital before realizing how unusually concerned its residents are with their local history; they maintain a sense of place long buried in most modern urban centers. In recent years this tradition has merged with the interests of a sizeable group of professional historians."

The most recent product of this merger, and one of the happiest, is this splendid collection of more than 600 prints and photographs with accompanying captions and text, five years in the making, proposed as a Junior League project by Mrs. Douglas Woods Sprunt, assembled by 100 or so League volunteers and friends, written largely by Judith Waldrop Frank, and shaped into

its final form by the editorial skills of Thomas Froncek.

One suspects that Froncek's work was on a scale of that of Maxwell Perkins in carving out a Thomas Wolfe novel. An introductory note tells us the League collected some 2000 pictures and its "manuscript filled two huge suitcases and was carted to New York by some of our stronger co-workers."

The finished book is an organized, balanced, and fascinating whole.

"The Nation's Capital (1790–1814)" documents in some 70 pages how successfully the leaders and the first citizens of the new nation met what Pierre Charles L'Enfant called "the opportunity offered them of deliberately deciding on the spot where their Capital City should be fixed" and carries the story through the "intellectual festival" of Jefferson's administration.

Readers who find too little here on the long history of Washington's black communities may want to continue their reading with the excellent study Free Negroes in the District of Columbia: 1790–1846 by the late Letitia Woods Brown, with a number of essays in recent volumes of the Records of the Columbia Historical Society of Washington, D.C., with The Secret City: A History of Race Relations in the Nation's Capital by the late Constance . . .

The first section opens with a full-page reproduction of a 1590 engraving of an Indian village. The next 40 pages record briefly the first European exploration of the area, present a number of early maps, touch on the grants to lords and other landowners, on the early tobacco trade, and the growing. . . .

There are dozens of imaginative and ingenious uses of pictoral material. For example, a background section from Charles Wilson Peale's 1789 painting of Benjamin Stoddert's children is enlarged to present the earliest known view of the port of Georgetown.

There are more dozens of happy discoveries, even for knowledgeable aficionados of Washingtoniana, in the first publication here of privately owned pictures. Not since the "Privately Owned" exhibit organized by Katharine McCook Knox at the Corcoran in 1952 has anyone rummaged so rewardingly in local personal holdings.

The City of Washington: An Illustrated History is a book for browsing, handsome coffee-table book that will frequently and profitably be taken off the coffee table. . . .

MIRACLE FOR NANETTE FABRAY—TRIBUTE EXPRESSED TO SENATOR RANDOLPH

Mr. WILLIAMS. Mr. President, I would like to bring to the attention of all who are interested in modern technology and techniques as they apply to the handicapped, the story of Nanette Fabray's "miracle" as told to Eldora Nuzum, editor of the Inter-Mountain, Elkins, W. Va., in a recent telephone interview. Ms. Fabray has had a long struggle with deafness that has forced her to wear a hearing aid for most of her adult life. She recently underwent an operation that has completely restored her hearing in her right ear. The surgery, called a stapendectomy, was performed on Ms. Fabray at the Ear Research Institute in Los Angeles. It is the result of a scientific breakthrough in surgery for the deaf. Following the surgery she wrote this note to Senator JENNINGS RANDOLPH, chairman of the Subcommittee on the Handicapped:

My big, big news is that Dr. Howard House and an associate operated on my right ear and I now have perfect hearing. This is a miracle. It is my fourth surgery and apparently both doctors were stunned at the conditions they found inside my ear. Howard said he couldn't understand why I wasn't stone deaf years ago. The little ear bones had all collapsed, a hole in the inner membrane was letting fluid leak out for the last 20 years, and a small fragment of bone had gotten into my semi-circular canal and was affecting my balance.

All this has been corrected and my hearing loss is now zero loss (from a 60–70 decibel loss), and interestingly enough, this astonishing recovery has helped bring my hearing up in my left ear.

I will never be able to thank all the people who made this miracle possible—that includes Dr. House, the Ear Research Institute for all its advanced scientific programs. It includes you and your dedication to the handicapped and your hard work to see that scientific advances are funded. I am a grateful recipient of the good work done by you and all those who serve the deaf.

Only government funding could make this scientific breakthrough possible. It is so enormous, private industry could not do it.

In concluding her story, as told by Mrs. Nuzum, Ms. Fabray said:

I am the direct result of the time and effort Senator Randolph has put into scientific efforts. His caring has paid off to me . . . and people like me . . . and I am very grateful.

I keep being startled that I not only hear what everyone else hears, but I hear better.

Now, I have to learn not to think deaf. The sound adjustment is not so much, but the mental adjustment is hard.

And then the vivacious actress began pouring forth with details of a new program she is instigating wherever she appears in a show:

I talk the management into setting aside a special section of the theater and supplying interpreters so that the deaf may share a regular performance together with average hearing people. I think this is psychologically and emotionally a better social situation for the deaf than having a special show just for them. Integration is the answer.

The theatre management supplies interpreters, offers special rates to the deaf and gives a small donation to a charity. All of this created quite a stir in the press and on TV. It has been such a success that the theatres where I have appeared are planning to continue this concept on a regular basis.

Ms. Fabray, a long time champion of the deaf and hearing impaired people, has appeared as a witness before Senator JENNINGS RANDOLPH's Senate Subcommittee on the Handicapped. She is well known to all of us who have worked in this area as a tireless supporter and worker for all of the disabled. I am pleased to note that after she left West Virginia that weekend in October she was heading for my home State, New Jersey, to open the annual Easter Seal campaign. The "miracle" has indeed happened to one of the best friends the disabled could have and I know that we are all very happy for her as well as for the many others this new operation will help.

Mr. President, I ask unanimous consent that Ms. Fabray's interview in the Inter-Mountain be printed in the RECORD.

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

MY HEART IS AT THE FOREST FESTIVAL—NANETTE FABRAY TELEPHONES MESSAGE TO FOREST CAPITAL

(By Nanette Fabray)

"I may be doing a film in Ohio but my heart is at the Forest Festival. I would like to be back with you again. If I could get a day off I would be there".

This special message from actress Nanette Fabray came to festival city this week in a telephone call to Ray Olson, last year's director general.

Taking time from her movie set in Lebanon, Ohio, where she is filming "Harper Valley PTA" in which she co-stars with Barbara Eden, Ms. Fabray chatted enthusiastically about her memories of the 1976 Festival and about an operation that has opened up a whole new world of sound for her.

"It's a miracle", said the actress describing the surgery she underwent in August that has completely restored her hearing in one ear and improved her hearing in the other.

Ms. Fabray, who holds three Emmys and a Tony among her many professional awards, told a festival dinner audience last year of her long personal struggle with deafness that has forced her to wear a hearing aid most of her adult life.

The surgery called a stapendectomy, was performed on Ms. Fabray at the Ear Research Institute in Los Angeles. It is the result of a scientific breakthrough in surgery for the deaf.

The new discovery is called Cochlear Implant and is currently available only to the totally deaf. But the incredible new operation holds forth great promise to those suffering from nerve deafness, a hearing loss which strikes one out of ten people in this country and 90 per cent of those over 65.

Ms. Fabray, a long time champion of the deaf and hearing impaired people who has appeared before Sen. Jennings Randolph's Senate subcommittee on the handicapped, wrote this note to the Senator in recent days:

"My big, big news is that Dr. Howard House and an associate operated on my right ear and I now have perfect hearing. This is a miracle. It is my fourth surgery and apparently both doctors were stunned at the conditions they found inside my ear. Howard said he couldn't understand why I wasn't stone deaf years ago. The little ear bones had all collapsed, a hole in the inner membrane was letting fluid leak out for the last 20 years, and a small fragment of bone had gotten into my semicircular canal and was affecting my balance.

"All this has been corrected and my hearing is now zero loss (from a 60–70 decibel loss), and interestingly enough, this astonishing recovery has helped bring my hearing up in my left ear.

"I will never be able to thank all the people who made this miracle possible—that includes Dr. House, the Ear Research Institute for all its advanced scientific programs. It includes you and your dedication to the handicapped and your hard work to see that scientific advances are funded. I am a grateful recipient of the good work done by you and all those who serve the deaf."

"Only government funding could make this scientific breakthrough possible. It is so enormous, private industry could not do it."

Concluding her conversation with Olson, Ms. Fabray said, "I am the direct result of the time and effort Sen. Randolph has put into scientific efforts. His caring has paid off to me . . . and people like me . . . and I am very grateful.

"I keep being startled that I not only hear what everyone else hears, but I hear better.

"Now, I have to learn not to think deaf. The sound adjustment is not so much, but the mental adjustment is hard", she said.

And then the vivacious actress began pouring forth with details of a new program she is instigating wherever she appears in a show.

"I talk the management into setting aside a special section of the theater and supplying interpreters so that the deaf may share a regular performance together with average hearing people. I think this is psychologically and emotionally a better social situation for the deaf than having a special show just for them. Integration is the answer", she explains.

"The theatre management supplies interpreters, offers special rates to the deaf and gives a small donation to a charity. All of this created quite a stir in the press and on TV. It has been such a success that the theatres where I have appeared are planning to continue this concept on a regular basis", she added.

And in farewell remarks, Ms. Fabray noted she would be heading for New Jersey to kick off the Easter Seal campaign.

OUR CONSTITUENTS ORGANIZE FOR THE CANAL TREATIES

Mr. CRANSTON. Mr. President, the breadth of the experience and political philosophies of supporters of the Panama Canal Treaties is very impressive. The membership of the recently organized Committee of Americans for the Canal Treaties, Inc. reflects this diversity among those who believe that ratification of the new treaties is in the best interests of the United States. Of the 157 committee members to date, just those currently or formerly of my State of California bears out this observation: Serving on the committee are former President Gerald Ford, who currently resides in California; Los Angeles Mayor Tom Bradley; former Secretary of the Treasury George P. Shultz; the Honorable Shirley Temple Black; Lew Wasserman, president of MCA; businessmen and philanthropists Armand Hammer and Norton Simon; the Honorable William S. Mailliard, former U.S. Congressman from San Francisco and Marin County; and John Calhoun of Mill Valley.

I welcome the establishment of this committee and I am proud of the participation in it by Californians. This Committee of Americans not only demonstrates broad bipartisan support for the treaties, but will work actively to educate the American public about the treaties and their implications for the United States and Panama. A continuing educational effort is necessary, I believe, because a recent Gallup survey, reported in the Washington Post on October 23, 1977, revealed "a serious lack of knowledge about the treaties, with about 4 in 10 Americans aware that the United States has the right to defend the canal, only about one in four aware that the canal is to be turned over in the year 2000, and only about one in seven aware that aircraft carriers and supertankers cannot use the canal."

I am certain every Member of the Senate is aware of the tremendous interest in and need for information about this issue from the great number of requests from constituents for copies of the treaties and answers to specific questions about them. The first advertisement by the Committee of Americans for the Canal Treaties, Inc. begins this educational process by pointing out that, from Harry Truman and Dwight Eisenhower to Gerald Ford and Jimmy Carter, American Presidents have seen the need for a new Panama Canal Treaty:

Thirteen years ago, President Lyndon Johnson conferred with ex-Presidents Harry Truman and Dwight Eisenhower. They all agreed that a new treaty was needed to insure our country's interests in the Panama Canal as a secure passageway from ocean-to-ocean.

Every President since—Republican and Democrat—has actively pursued this goal.

Our Presidents knew that a new Panama treaty would be in the best interests of every American and would make for a stronger America.

Ratification of the new treaties will prove a dramatic step forward in U.S.-Latin American relations, and enhance U.S. prestige around the world—while protecting our nation's real interests.

The treaties, now before the Senate, provide for continuous U.S. operation of the Canal—through a U.S. agency—until the end of the century. We will keep all the military bases we need to defend the Canal. And, starting with the year 2000, our permanent right to protect the Canal will continue.

Secretary of Defense Harold Brown, a vigorous advocate of a strong national defense, summed up his support this way:

"These treaties fully serve and greatly promote our national security interests. The Joint Chiefs of Staff share that view. These treaties deal with today's realities; and, they provide the security we need for the future."

Yes, the U.S. permanently retains the right to defend the Canal . . . and, the U.S. Navy will always go to the head of the line to pass through the Canal in time of emergency.

Like any nation today, Panama expects to exercise its sovereignty over all its territory. The new treaties meet Panama's just aspirations—while guaranteeing America's right to protect our real interests in an open, safe, and efficient Canal. The treaties will give Panama greater economic benefits from the operation of the Canal—but these benefits will come from Canal tolls and revenues, not from the U.S. taxpayer.

These are some of the reasons why the new treaties are supported by people throughout the country—from all walks of life and of different political philosophies. People like John Wayne, George Meany, General Matthew Ridgway, William F. Buckley, Jr., Vernon Jordan, Shirley Temple Black, Margaret Truman Daniel, General Maxwell Taylor, Governor Jerry Apodaca, James J. Kilpatrick, and Shana Alexander.

Mr. President, the broad and bipartisan membership of the Committee of Americans for the Canal Treaties, Inc., should be of interest to my colleagues. I ask unanimous consent that the list of members from the committee's advertisement be printed in the RECORD. I note that additional people join the committee daily.

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

COMMITTEE OF AMERICANS FOR THE CANAL TREATIES, INC.

Elie Abel
Amb. Charles Adair
Hon. Stephen Ailes
Hoyt Ammidon
Hon. Robert B. Anderson
Robert O. Anderson
Gov. Jerry Apodaca
Gov. Reuben Askew
Hon. George Ball
Robert S. Benjamin
David Berger
Judge Harold Berger
Archbishop Joseph L. Bernardin
Bert Bernhard
Barry Bingham, Sr.
Hon. Eugene Black
Amb. Shirley Temple Black
William McC. Blair, Jr.
William Boeschenstein
Mayor Tom Bradley
Edgar Bronfman
John W. Brooks
Hon. Philip W. Buchen
John Calhoun
Amb. Henry E. Catto, Jr.
Howard L. Clark
David Cohen
*Hon. William T. Coleman, Jr.
*Sen. John Sherman Cooper
*Gardner Cowles
Jan Cowles
Donald E. Creamer
J. Dewey Daane
*Margaret Truman Daniel
Richard Debs
Hon. C. Douglas Dillon
Peter Duchin
Henry A. Dudley
Amb. Angier Biddle Duke
James H. Evans
Amb. George Feldman
Hon. Thomas K. Finletter
Max Fisher
Peter Flanagan
Maj. Gen. Robert Fleming
President Gerald R. Ford
Michael V. Forrestal
Hon. Henry H. Fowler
Douglas Fraser
J. Wayne Fredericks
Gov. Orville Freeman
Hon. Peter H. B. Frelinghuysen
Richard M. Furlaud
David Ginsburg
Guido Goldman
William Gorog
Barry M. Greenberg
W. L. Hadley Griffin
Armand Hammer
*Gov. Averell Harriman
Pamela Harriman
Alexander Heard
Dorothy Height
Ben Heineman
*Andrew Heiskell
Jerold C. Hoffberger
Hon. Anna Rosenberg Hoffman
"Peatsy" Hollings
Maj. Gen. Jeanne M. Holm
William Hutton
Franklin A. Jacobs
Philip Jessup
Hon. Jed Johnson, Jr.
Vernon Jordan
Bishop Thomas C. Kelly
Bobbie Greene Kilberg
*Lane Kirkland
Nancy Maginnes Kissinger
S. Lee Kling
Hon. Philip Klutznick
John A. Knebel
Robert H. Knight
*Arthur B. Krim
Mayor Moon Landrieu
Lewis Lapham
R. Heath Larry
Mary Lasker
Harding W. Lawrence
Sen. Henry Cabot Lodge
John Loeb
Peter Loeb
Hon. Katie Louchheim
Hon. William S. Maillard
Hon. John McCloy

C. Peter McColough
Hon. Leonard H. Marks
Hon. John O. Marsh, Jr.
Burke Marshall
Dr. Benjamin Mays
George Meany
Helen Meyer
G. William Miller
J. Irwin Miller
Seymour Millstein
Clarence Mitchell
David A. Morse
Hon. Paul Nitze
Gen. Lauris Norstad
Paul O'Neill
*Hon. Peter G. Peterson
Jane Cahill Pfeiffer
Ralph A. Pfeiffer, Jr.
Rabbi Stanley Rabinowitz
Mary Louise Reid
Hon. Ogden Reid
David Reynolds
Gen. Matthew Ridgway
David Rockefeller
Hon. Nelson Rockefeller
Hon. William D. Rogers
Robert Roosa
Hon. Franklin D. Roosevelt, Jr.
Theodore Roosevelt, IV
Elspeth Rostow
Walt W. Rostow
James Rouse
Dean Francis Sayre, Jr.
Dore Schary
Arthur Schlesinger, Jr.
Benno Schmidt
*Sen. Hugh Scott
Gen. Brent Scowcroft
Irving Shapiro
George P. Shultz
Norton Simon
Jean Head Sisco
Joseph Sisco
Peter Solbert
Theodore Sorensen
Elizabeth Stevens
George Stevens
Roger L. Stevens
Ellen Sulzberger Straus
Hon. James W. Symington
*Sen. Stuart Symington
Arthur Taylor
*Gen. Maxwell Taylor
Walter Thayer
*Hon. Alexander Trowbridge
Martin Ward
Lew Wasserman
Thomas Watson
Glenn Watts
James Wilcock
Jerry Wurf
Mayor Coleman Young
Adm. Elmo Zumwalt

MR. NITZE'S SERVICE TO THE PUBLIC

Mr. ALLEN. Mr. President, I wish to comment on the very valuable public service performed by Mr. Paul H. Nitze, former SALT negotiator and Deputy Secretary of Defense. Mr. Nitze, on November 1, 1977, provided for Americans an excellent analysis of the present state of the SALT negotiations. None of the information supplied by Mr. Nitze was classified, but even if it had been, certainly that classification should have been lifted inasmuch as it is essential that the American public does understand exactly what is proposed both by the negotiators for the Soviet Union and by the negotiators for the United States.

Too often in the past, the Executive Department has sought to negotiate in total secrecy primarily to prevent public criticism of actions taken by negotiators for the United States. Mr. President, the practice of classifying information to prevent debate simply cannot be tolerated in a democratic state. The people must be kept informed about these SALT negotiations and about all other negotiations of similar great national significance. Certainly, any information made available to the Soviet Union ought also to be made available to the people of the United States. Why should a negotiator for the most repressive dictatorship in the history of man be privy to information withheld from the citizens of a free republic? The answer is, Mr. President, that there is no justification whatsoever for such conduct.

So, I urge the Executive Department to keep the American people fully advised of each step in these negotiations, and I further urge the Executive Department not to give a security classification to information well known to our enemies simply because the administration might fear that the American people would object to proposals advanced by our negotiators. If these matters were discussed openly, no treaty could be concluded except a treaty which was approved by a majority of the citizens of the country and except a treaty which could properly receive the consent of the Senate by a requisite number of votes.

*Committee Cochairpersons.

CHARLES L. ANSPACH

Mr. GRIFFIN. Mr. President, sad news came from mid-Michigan last week when we learned of the death of Dr. Charles L. Anspach, president emeritus of Central Michigan University.

I have never known a finer man. My wife, Marge, and I feel very fortunate to have been among those whose lives were touched by Charles Anspach—a man whom we much admired during our student days at college and whom we continued to love as a warm and valued friend.

Charlie Anspach was a scholar, teacher, administrator, public speaker, author, and public servant. Most of all, he was a man of kindness and compassion, a true humanitarian who often said, "There's nothing like good friends."

I was not surprised today—10 days after his death—to receive a birthday card with a personal note from Charlie Anspach, written before his recent illness, to be posted at the appropriate time. Even in their grief, his family saw to it that his card was mailed to reach me close to November 6, my birthday—because Charlie would have wanted it that way."

The message on his card, borrowed from an anonymous poet, was so typical:

There's wisdom in taking time to care;
There's wisdom in giving, and wanting to share;
There's wisdom in grace and making amends;
There's wisdom in having and keeping good friends.

Charlie Anspach was a man of many talents. Renowned both as an educator and humorist, he enjoyed at least three successful careers during his life, which ended October 25 at the age of 82.

Born and raised in Ohio, Dr. Anspach graduated with a bachelor's degree from Ohio's Ashland College in 1919 and received a master's degree there the next year. After 9 years in private industry, he returned to his first love—education—becoming registrar and later dean at Ashland College.

In 1930, he earned a Ph. D. degree at the University of Michigan in Ann Arbor, and then joined the faculty at Eastern Michigan University in nearby Ypsilanti. There he served as head of the department of education and as dean of administration until 1935, when he returned to Ashland College as its president.

Four years later, in 1939, he began what was to be an exceptional 20-year tenure as president of Central Michigan University at Mt. Pleasant.

Under Dr. Anspach's leadership, from 1939 to 1959, Central Michigan grew from a small teacher-training college, with an enrollment of 1,200 and five buildings, to a thriving State university with 5,000 students on a campus of more than 200 acres. Name changes—from Central State Teachers College—to Central Michigan College of Education—to Central Michigan College—and, finally, to Central Michigan University—reflected its growth and development as liberal arts, preprofessional and graduate programs were added to the curriculum.

Today, Central Michigan has more than 16,000 students who come from all parts of the Nation and from many foreign countries.

As Central Michigan grew in size, President Charles L. Anspach grew in stature. As a speaker and as a leader in higher education, he earned a national reputation.

But what made him special was not so much what he did—which was a great deal—but what he was to all who knew him.

He was a man with a perpetual twinkle in his eye, always ready with just the right story to tell. He was never too busy to write a note—to congratulate a student for a paper well written or for a race well run. He was a man who was so loved and admired by students that he could draw a standing ovation just by walking into the college cafeteria for a cup of coffee.

Being president of a fast growing college kept him very busy, but still he found time to serve young people in many other ways. For example, he was chairman of or worked on numerous educational boards and commissions; he was active in the national councils of both the YMCA and the Boy Scouts of America.

He was a vigorous leader in church, philanthropic, civic and Masonic work. And once he even held public office—as an elected delegate to Michigan's Constitutional Convention in 1961–62.

Charlie Anspach loved to say: "We have to pay for the space we occupy in this world." And pay he did—so enthusiastically, generously and abundantly that all who knew him feel a great debt of gratitude.

Often the best measure of a man can be found in evaluation by his peers and colleagues. In 1949, after Dr. Anspach had been president at Central Michigan for only 10 years, the faculty presented him with a certificate of affection and esteem noting his "rare qualities of accessibility, tact, sincerity, and humor * * * whose high purposes inspire unfailing loyalty and devotion."

Around and beyond the State of Michigan, Charlie Anspach was best known as an inspiring, witty, and brilliant public speaker. During his lifetime he delivered thousands of speeches.

After "retiring" in 1959 with the title president emeritus, he continued to entertain and enlighten audiences as one of the most popular speakers in the State. Indeed, he was busy as a public speaker until 2 months before his death.

Fortunately, in 1976, Charlie Anspach took time to select and compile some of his speeches for publication in a book entitled, "A Voice Speaks." The book is a treasured volume reflecting and preserving some of the wit and wisdom of this great American.

Mr. President, I ask unanimous consent that an edited version of the preface to the book written by Dr. John C. Hepler, be printed in the RECORD, to be followed by several representative editorials which appeared in Michigan papers following the death on October 25, 1977, of Charles L. Anspach.

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

DR. C. L. ANSPACH: HUMANITARIAN AND COLLEGE PRESIDENT

During the years of Charles LeRoy Anspach's tenure as President of Central Michigan University, from July 1, 1939, to July 1, 1959, he made a total of 2,415 speeches. Although many were delivered out of state, the great majority were presented to citizens throughout Michigan. At Central Michigan College, he spoke as often as three times a week to student groups. Thus, in his almost forty years of life and work in Michigan, no one can estimate with accuracy how many men and women—including students—heard his words in auditoriums, sanctuaries, banquet halls, classrooms, legislative chambers, clubrooms, arenas, and other meeting places. He gave of himself unstintingly. Few, therefore, can take issue with the assertion that Dr. Anspach was one of Michigan's eminent men, perhaps among the most widely known because of his many platform appearances throughout the State. Even in the seventeen years since his retirement, he has been called on time and again to speak.

Recently, a number of people—including graduates of Central and Eastern Michigan Universities, and Ashland College—have expressed the belief that Dr. Anspach's speeches should be printed in book form. But according to his own records, he delivered some 4,198 speeches between 1935 and 1969, and publishing every one of his public utterances would have been a monumental and expensive task. In one book, however, it is possible to present a representative sample which to some degree may meet the demand of those who admire his speaking ability and want, under one cover, a cross-section of his speeches. Thus, the genesis of this volume.

"There's nothing like good friends," Dr. Anspach used to say, and he loved being with them. Sometimes it would be on a fishing expedition on a lake or river. Because he would not violate the tradition of non-smoking in Warriner Hall, it would be in Keeler Union in a friend's office, where he lighted a cigar and enjoyed chatting with companions. On summer evenings he "shot the breeze" in more than a few backyards with friends. Always, he enjoyed the easy camaraderie with those he knew well. He was both a good listener and a scintillating conversationalist. People always felt at ease in his presence.

When the conversation touched serious matters, he was able to clarify or illustrate the subject with a story. Frequently light, it might be quoted from a daily newspaper or from his file of 4,000 jokes and humorous illustrations. Often, he demonstrated the knack of telling joke after joke, and he was also one of the few men who could interrupt one joke in the middle to tell a new one and then finish the original one. He had a gift for controlling narratives, no matter how complex or involved. Nor was there ever vulgarity or coarseness in his stories or illustrations. He had this advice for himself—as well as for others: "If there is question about using material, omit it."

One of his fascinating qualities was his willingness to talk of humorous, even embarrassing, events. One overly wet spring a young track coach, on the advice of an old warrior in athletics, dispatched his track team to Warriner Hall to work out in the halls and on the stairs. Dr. Anspach looked at the incident as a good, practical joke. At least twice he drove to Coldwater, Michigan, to fulfill engagements—except they were scheduled for other communities. These were his own errors!

He talked about these incidents with zest, for he enjoyed laughing at his own mistakes. It was characteristic of him to be able to laugh at himself, and his unique sense of humor was a great virtue.

This is not to imply that he could not be and was not serious. He was vitally interested in the college, the faculty, the students, the community, the State, and the Nation. He had definite ideas about education's role and the obligations of leaders in education, business, and government. While he refined these concepts for his speeches, he also expressed his ideas in his dialogues with friends. From his debate training, he valued the incisive question; but he seldom cross-examined. Invariably, he was first and foremost a man of humanity.

This was confirmed by his deep compassion. He was aware of the other person's feelings and rights, and when discussions dealt with people, his great concern was for fair play and kindness. He had no desire to hurt or humiliate anyone. He wanted to do the right thing, to bring to an action both gentleness and understanding.

Living in a world of people, he believed his role was to give of himself generously. He frequently said, "We have to pay for the space we occupy in this world." He paid a high price, for he responded to the demands on him—whether it meant sitting down with a few students to discuss campus problems or speaking to 4,000 people at a meeting of the Order of the Eastern Star in Grand Rapids. The OES group, incidentally, was the largest audience he ever addressed. He laughs as he recalls arriving at the Pantlind Hotel and realizing his notes were in Mount Pleasant! Obviously, he spoke without them.

Quite often, people expected much of him. As a very young president at Ashland College, he set out early one morning on an all-day trip to reach an Indiana city in time to address a conference. After the long drive, he bought his own banquet ticket (and one for the driver of the car), made the speech and returned to Ashland, arriving at 5 A.M. In addition to the banquet tickets, he also paid for his own gasoline and received no honorarium for his services! On another occasion, as the main speaker at a fund-raising drive, he not only spoke "free" but also dropped a ten dollar bill in the hat! He was generous with his own gifts and his material goods.

As a host, Dr. Anspach was gracious and genial. He enjoyed the friendly, free atmosphere of his living room. As a guest in the homes of others, he was always welcome. His generosity and kindness, although day-to-day qualities, came into focus at the annual faculty Christmas parties. From about 1943 to the mid-fifties, these gala occasions occurred in Keeler Union Building. From its glittering lobby with a beautiful Christmas tree, guests watched food staff members descend the great staircase. Each carried a flaming plum pudding. After the collation, one of Dr. Anspach's friends presented a Christmas program. Finally Dr. Anspach made some brief remarks and wished everyone a Merry Christmas. He called the party his Christmas Card. His joyful sharing was characteristic of the man, and all who experienced these beautiful affairs will remember them with pleasure. The occasion became a casualty of Central's burgeoning growth.

When Dr. Anspach became president of Central Michigan in 1939, he was 44 years old. The Central State Teachers College had an enrollment of 1,489 and a faculty of 87. Fifteen had earned doctorates. Five buildings and 50 acres comprised the campus. When he retired at 64, Central Michigan College had an enrollment of 4,293 with 284 faculty members. One hundred and twelve had earned doctorates. There were 21 buildings on 235 acres. During those years, he also was instrumental in the college's purchase of the Beaver Island property, which has long been a site for biological studies of various kinds and for a variety of meetings and recreational activities. In his 20 years, he presided over an institution which was expanding and whose function was changing from teacher-training chiefly to a wide range of curricular patterns including liberal arts and pre-professional offerings. The times were, in general, expansive, and the college grew in size and reputation.

The collegiate world of the 30's and early 40's was crumbling. Greater liberality was replacing conservatism; informality was supplanting formality; ritualized activities were being eliminated. Even the beloved "Swing-Out" became a casualty of change and by the time Dr. Anspach retired, the tradition had run its course. Yet at Central a widespread feeling developed that provincialism was on the wane, that more professionally trained professors and scholars were strengthening the faculty; and that Central Michigan was emerging into a multi-purpose institution with more than a regional reputation.

To a very great degree, Dr. Anspach's skill and management were instrumental in leading Central forward. He was able to adapt to the shifts in tradition and to quicken the newer concepts. He was an intelligent man whose mind mastered detail and whose knowledge contributed to his vision as a college president.

He initiated, for example, the practice of "Fireside Chats" for students. He recognized the value of foreign students on the campus and made efforts to bring them to Central. Some of his richest experiences have arisen from his interest in foreign students who have kept in touch with him for years after their graduation. They knew his special affection for them. In addition, he developed almost single handedly the image of Central as a friendly campus.

The president also stressed for students the significance of gracious social experiences. Even if he sensed the ebbing importance of tuxedos and evening gowns and candlelit teas, he did all he could to continue the traditional social activities.

There was no question about his interest in students. Because of his friendliness and accessibility, he called hundreds of students by their first names. His frequent meetings

with young people on the campus led him to dispatch letter after letter to students commending them for their achievements. In the fall semester of 1957, he wrote "about 150" such personal letters. Students who received them often had their letters framed. In addition, he frequently gave students a second chance. Without intending sacrilege, he said, "If Christ did it, we should set an example of forgiveness."

No wonder, then, that he was loved by so many of the young men and women who attended Central Michigan College.

His faculty relationships were, in the main, pleasant and meaningful. As the staff increased in number, some of the "family spirit"—a rich legacy from his early presidency—was dissipated by the expansion and changing times. Yet Dr. Anspach's years were a time of campus harmony. He had a unique ability to bring amity to difficult situations, and with all groups he sought a unanimity. There was mutual trust between him and his colleagues. His annual "State of the Union" remarks to those who taught may not have "told all"; but they were candid revelations bespeaking trust. And he always devoted time to explaining the activities of the State Legislature, emphasizing the appropriations for Central and discussing what moneys were available for salaries. He believed in his faculty, appreciated their work, and within the annual budget limitations, did his best to build a better world for the entire staff and to expedite their requests both individually and collectively. He was always quick and generous with praise and congratulations to professors for their achievement.

Dr. Anspach was a decision-maker. He listened to requests and asked questions. Once convinced of the facts, he said yes or no. If the judgment of other administrative officers or faculty was necessary, he sought it—and then acted. But he expected action, too. More than once, he was heard to say to a suggestion from a faculty member, "Well, let's try it and see how it works."

Some measure of the staff's respect and affection for the President was his annual birthday parties in March. Sponsored by the Faculty Men's Club, the gatherings were well attended. On March 2, 1954, the club presented an elaborate testimonial: a "This Is Your Life" program. It imitated a popular TV show of that period. Friends and relatives secretly converged upon Mt. Pleasant from various midwest communities. At appropriate moments in the script, they surprised Dr. Anspach by walking on stage to greet him. It was a unique demonstration of the President's popularity with the staff. At the same time, it testified to his status with leaders in business, education, government, and religion.

He was, after all, building a new campus of more than buildings and acreage, even as important as they were. He helped interview candidates for faculty positions, presided at endless meetings, spoke to the faculty on campus problems, and was always traveling extensively. In a time of expansion, his off-campus activities served the institution well, for he was identified with Central Michigan wherever he went. He was the institution's roving ambassador. At Lansing, he was respected by the Legislature for his integrity, knowledge, and conscientiousness. His influence helped gain continued and often generous support for the institution. He had fine relationships with the State Board of Education which set guidelines for the state colleges. His inspirational "commencements" motivated high school graduates to come to Mt. Pleasant Central Alumni who knew Dr. Anspach recommended Central to others.

As a popular and respected human being, he was in constant demand as a speaker for various functions. He addressed the American Association of the Colleges of Teacher Education, national and state Y.M.C.A. councils, the American Textbook Institute, the National Jamboree of the Boy Scouts of America, the Veterans of World Wars I and II, and countless college and public school groups including teacher, administrative, or parent groups all over the midwest. Every spring, he addressed countless graduating classes at high schools and colleges. Dr. Anspach was the first Central President whose reputation was truly state-wide and extended beyond Michigan's boundaries.

Again and again, he received national acclaim for his speeches. In 1950, the Freedoms Foundation at Valley Forge, Pa., named his "To the Future," as a second place national award in the Commencement Addresses category. The Wetmore Declamation Bureau used two of his speeches as models. The Public Relations Department of E. I. Dupont De Nemours Company printed his "Candles-in-the-Dark" address and distributed copies as the corporation's 1955 Christmas message. These were mailed to employees and friends all over the world. A number of his addresses were printed in national periodicals like Vital Speeches, Wisdom, The Peabody Journal of Education, and the Michigan Educational Journal.

His participation in countless national and state organizations and an array of honors—national and international—testified to his stature. He is probably the only person ever to have been awarded honorary degrees from six different institutions of higher education in Michigan: The University, Central and Northern, Olivet, Ferris State, and Northwood Institute. He felt also a sense of pride in being a Thirty-third Degree Mason and having been an elected delegate to Michigan's Constitutional Convention in 1961. He was an active member of numerous organizations and participated in their activities.

Dr. Anspach was without doubt the moving force in developing a state college that was earning a respectable place in the state and midwest hierarchy of colleges and universities, and the faculty was aware of his valuable contributions not only to the campus but in a world beyond the boundaries of the institution.

Friendly, visionary, honest, intelligent, and enthusiastic, Dr. Anspach dedicated himself to his life's work: the improvement of Central Michigan College and young people. He was instrumental in helping Central to undergo a rather painless transformation to a multi-purpose institution of unbelievable size and significance. In 1959, on the eve of his retirement, Dr. Anspach stated, "No person can separate himself from people, from the times, from circumstances, and the forces known and unknown, which inspire and motivate him." He lived with a conscious awareness of the shaping forces touching him, and he helped mold the college in a direction he knew it must go. He was, as President, a builder par excellence. His administration was based on love. Sufficiently perceptive to see the coming of vastly complex forces which could not be handled by a love-relationship, he chose to retire. No one could deny that he was, in his time, a great humanitarian and a great president.

Dr. Anspach grew up in a rather strict Brethren background, and all his life he clung fundamentally to that boyhood heritage. Yet his beliefs broadened into more liberal views, and he developed a practical life style. He was, indeed, a dedicated Christian, even if those views never became the chief focus of his speeches and conversations. Nonetheless, his religious concepts were an important part of his make-up and implemented his other ideas. He was interested in a better world, but he was a far-cry from being tendentious and evangelistic.

He believed man was God's handiwork. It was the Lord who created man's flesh and spirit and whose Voice guided him. A human being's most creative act was to recognize the inter-relationship of man, the universe, and God. If he understood this unity, it led him to a sense of world harmony. In Dr. Anspach's "A Voice Speaks," he emphasized the interplay between God and man. That concept was a cornerstone of his beliefs, and he once illustrated it by saying, "No job is too big for God and me."

The roots of his Christian beliefs derived from his boyhood in Fremont, Ohio. There, his parents and his maternal grandparents took him regularly to church and Sunday School and urged him to participate in Sunday School competition of various kinds. His father, Philip Noble Anspach, a church leader with a keen memory, had a reputation as a Biblical authority. Young Charles aimed to match his father's achievements. In addition, his mother often "heard" the lad's "memory work." His maternal grandfather, Samuel Loose, an industrious farmer with college training, preached for 50 years without salary in the Brethren Church. There was an exceptionally close relationship between the man and his grandson. The older man's influence on Dr. Anspach's life is testified to by a statement he made many years later: "I suppose that if I didn't believe in God, I would have worshipped Grandfather." In later years, when he cited scriptural texts, used Biblical illustrations, or referred to patriarchs of the past, the references carried force. They surfaced from the depths of his childhood in a family dedicated to God.

For him, lip service to Christianity was inadequate. Action must be a natural consequence of faith. It is not difficult to see that Dr. Anspach's life-long predilection to public speaking was a layman's dedication to religious purpose. He sought world improvement. Had the Brethren Church been more liberal or more sophisticated, Dr. Anspach might have entered the pulpit in a metropolitan church rather than the president's chair in a college.

His strong desire to do good focused on mankind which he saw as a magnificent procession of men and women on the march through life. All people were participating in the grand adventure of a universal brotherhood moving, as John Greenleaf Whittier put it, towards the curtain which never swings outward.

For all men, women, and children, life brought insurmountable difficulties, unexpected darkness, and distress. Yet each person must "go forward", heeding the "Voice" and being willing to accept and give the helping hand of a brother. This idea was developed in a 1947 Swing-Out speech called "Silent Partners." We are not self-made men because we owe a great debt to those who have gone before us and to our contemporaries, both known and unknown.

He expressed this a bit differently in his reminiscence in an essay at the beginning of this volume. He wrote, "My life is the story of the kindnesses of people, the confidence and trust of those with whom I have worked, the goodness of the watchful and guiding Father, and the understanding and love of my family." No wonder he said more than once that no man walks alone.

In his conversations and speeches, he accepted without question the divine theory of creation. Man lived in God's world, to do His work and to fulfill man's functions, responsibilities, and pleasures. These concepts led him to a rationale for day-to-day life. The essence he quoted from a quatrain by Maltbie Davenport Babcock:

Be strong!

We are not here to play, to dream, to drift;

We have hard work to do, and loads to lift;

Shun not the struggle—face it; 'tis God's gift.

Puritan in its emphasis on man's obligation to work in God's cause, the lines char-

acterize his attitude in his life, work, and speeches. He exemplified the work ethic.

He believed that man could improve himself and build a better world. With time, hard work and faith, man could accomplish these aims. In a speech subtitled "Life Must Be Lived in an Enthusiastic Manner," he urged a graduating class to live the Golden Rule and climb "upward."

Repeatedly, he stressed the role of inspiration. All men were endowed with certain capabilities or skills. Man must reach for the stars. That aim contributed to his sense of dignity and nobility.

He frequently cited two Biblical passages that meant much to him. One was from the Book of John: "Greater love hath no man than this, that a man lay down his life for his friends." The second was from Matthew: "He that findeth his life shall lose it: and he that loseth his life for my sake shall find it." Dedication to a great cause—like Cristianity, teaching, moral responsibility to other abstractions like honesty, truthfulness, and sobriety—was a means of man's realizing his full potential. As President Anspach phrased it in the subtitle of one of his most widely known speeches, "Candles-in-the-Dark": "Life Has Meaning When It Is Given Away."

He often reminded audiences of the significance of the commonplace. Inspiration could be found at home, and happiness originated from our inner adjustments to our immediate world.

Although his inspirational speeches were numerous, he also spoke on education, international affairs, and community-building. Identified closely with education, he most frequently dealt with that subject. For example, in May, 1955, twelve of his sixteen speeches were on that topic. October, 1960, seven of thirteen dealt with it. In addition, he often mentioned the subject in his inspirational addresses.

As President of a state college, he saw his role as a civil servant whose "privilege and responsibility" included leading others through "dark and difficult times." As a leader he solicited the opinions of others. Yet as a well informed, responsible, and experienced educator, he expected his message to be heeded. Leadership had its obligations, and he hoped to charge minds with ideas that might further the interests of education.

Through his almost forty years of public service, he emphasized the need for education to develop among students a sense of responsibility. "Our greatest resource," he said, "lies in the mental abilities of youth." Schools must teach skills and inculcate attitudes. They must develop in students a strong desire to do "right" and to sharpen their intellectual curiosity.

He urged college students to love God and country, and he never tired of telling them that as educated people, they were among the privileged few with definite obligations. In speech after speech, he stressed the need for moral behavior.

College graduates must contribute to the good of society. In 1954 in a Swing-Out he detailed a somewhat unique function of graduates. Titling his address "An Element of Freshness," he charged them to bring "freshness" to society, to serve as the "great rejuvenators." They should inject into life enthusiasm, energy, and daring: "ingredients essential to the renewal of life." They should also exercise their creative minds and utilize their "wholesome personality." All this would contribute to "constructive change" in society.

Strangely enough, Dr. Anspach's published speeches seldom touch on teacher-education. At Arizona State, at Tempe in 1962, he argued that teacher preparation should be an all-university responsibility. In general, however, his speeches skirt the so-called processes of education. The reason for this is that his dedication was to aims and results. The "how" of education and its techniques were less important. He was concerned more with the flame than the candle. To him, it was vision that counted for something, the vision of better graduates, the vision of a better world through education. To those aims he had dedicated his life.

He treated international relations in several addresses. His chief contention was that our democratic heritage of freedom must be preserved. Since atomic power is shared in a world of diverse ideologies, the United States must remain powerful and at the same time assume among the nations a role of leadership. Higher education should develop citizens of good will, men and women dedicated to a world of peace.

Dr. Anspach was in constant demand to speak to civic groups of all kinds. He, therefore, developed a speech which he called "Community Intangibles." Presented again and again, it urged cities, towns, and organizations to strive for a sense of community and to seek consciously to develop the potential of young people.

Dr. Anspach's ideas originated from varied sources. Although many were from the Bible, he also quoted from a great diversity of writers. He drew frequently from the writing of the nineteenth century Romantics: Henry Van Dyke, Henry Wadsworth Longfellow, Oliver Wendell Holmes, John Greenleaf Whittier, John Boyle O'Reilly, James Whitcomb Riley, and others. He was sympathetic to their ideas, idealism, and the "old-time" verities. These authors were often moralistic and used simple understandable English. Of course, their ideas complemented the inspirational "message" which often characterized his speeches.

He was conversant also with such other writers as George Bernard Shaw, William Blake, George Santayana, Russell Davenport, Walter Lippmann, and Robert A. Millikan.

In the world of ideas, Dr. Anspach synthesized many divergent points of view. That was his great gift. Folksy, humorous, moral, or analytical, as the circumstances dictated, he presented, as a rule, familiar ideas in his own inimitable way. Thus, he both challenged and reassured listeners. He never flagellated them. He had ideas to transmit, and he did just that in an easy, direct, and natural manner that held the attention of his audiences and challenged their minds.

As a speaker, Dr. Anspach had an attractive, reassuring platform presence. Pleasant looking, well dressed but not flashy, he awaited his moment with poise and an obvious interest in the activities taking place. When he was being introduced, he frequently crossed and uncrossed his legs and fidgeted on his chair. He has explained that during introductions, he felt not so much a nervousness as an anxiety from being keyed up and a desire to get started.

His approach to the podium was nononsense. A few steps from it, he was hurrying through the amenities: "Mr. Chairman, Honored Platform Guests, Members of the Board, Members of the Faculty, and Ladies and Gentlemen." The opening was invariably with a rush, as if he wanted to get on with the speech. For many speakers, such beginnings would have been disastrous, but Dr. Anspach exuded charm and warmth, and audiences responded. He had a winsome smile and an easy manner. When he began his speeches with a story or two, he chuckled as if amused by the narrative, and when the punch line came, he laughed with the audience.

He was invariably relaxed. It was as if he was speaking personally to each listener. He used neither rhetorical flourishes nor an oratorical tone. His conversational intimacy established with his audience a rapport that was the envy of the less gifted. Words flowed from him with grace and simplicity, and these qualities conveyed his sincerity and frankness. It was plain to all that he was eager to interest his audience, anxious to convey his concepts and to have people understand. As he spoke, he gave the impression of being tightly wound but not tense. Listening to him, one soon lost himself in his pleasant voice, self-assurance, and ideas.

Occasionally, a mannerism or a story broke the spell; but in a moment, the speaker had spread his magic again. One of Dr. Anspach's most common mannerisms dealt with his wrist watch. Approaching the podium, he slipped it from his wrist. Then, with band around his fingers and the watch dial near his knuckles, he launched off into his remarks, with occasional glances at the watch. It was as if he was timing himself. Indeed, his speeches were seldom long. He said his say and quit.

As a rule, stories introduced his speeches. When he told one within his addresses, the aim was to renew audience attention or drive home a point. A born story teller, he delighted in sharing yarns, and he had the ability to relate a one- or two-line joke or a much longer one with nonchalance and a self-assurance born of long experience in handling interpolations. Even today, his readers will laugh at some of the stories. Dr. Anspach's skill with narration, proper inflection, and a marvelous sense of timing intensified the effect. He had also an uncanny knack of using just those stories that suited his audience.

Not all his stories were humorous. He retold Biblical narratives and personal incidents with consummate skill and vivid detail. The latter originated from his early years; yet his experiences abroad with the "Flying Classroom" were an inexhaustible source of interesting and illustrative incidents.

He used them not merely for rhetorical effect. People and the interplay of human beings fascinated him, and his stories, always illustrating a relevant point, personalized the abstractions he was explaining. Cardinal to his speech theory—next to contending a speaker must have something to say—was the obligation to be interested and interesting. Thus, stories helped create and sustain interest.

Although Dr. Anspach was no phrasemaker, he capitalized on certain metaphors. The purple or the crimson thread symbolized the continuity of good traditions or the love of humanity. The hyacinth alluded to spiritual values; bread to the material. The orchid was his symbol for saluting man's highest achievement. The walk of life referred to the human cycle from birth to death. The great adventure meant man's life experiences. Light and dark referred to the known and the unknown. The latter also focused on the mysterious future. Lighted candles alluded to the spiritual in a world of trials and tribulations.

These symbols were simple and familiar, and his speeches gained force through their use. Here despite his degrees and his high calling was a man who could be understood and who stated clearly what he had to say. And his ideas were significant to his audiences.

It was also important to Dr. Anspach that his speeches move. They were characterized by a definite progression. After a well defined beginning, he developed as a rule three main points, clearly labeled, and a conclusion. Ideas flowed into ideas with effective transitions. In the conclusion, he sought to achieve a climax or high point. This accounts for his use of a poem, fragments of poems, or other quoted materials. The familiar and the relatively simple quotations, he felt, helped him to achieve just the right effect.

His gift of responding to conditions and circumstances added to his effectiveness. If an audience became restless, he narrated

stories or improvised to regain audience attention. If necessary he made radical alterations in his plans. He always could respond to unforeseen circumstances.

Dr. Anspach contended that 80 percent of his speeches were extemporaneous; the others were impromptu or read from manuscript. Although he spoke from an outline, his extemporaneous addresses, as a rule, were in manuscript. He did not memorize these speeches. The outlined main points jogged his memory. This mode of speaking was admirably suited to his temperament, imagination, interest, and his rare gift for impromptu interpolations. When he read his speeches, his delivery was often rapid and lost both the emphasis and the intensity that characterized the free and fluent delivery of the outlined ideas from his carefully planned addresses.

It is a truism that printed speeches lose something in the reading. In this volume, the loss occurs because the viable interplay between a responsive audience and Dr. Anspach's engaging personality and platform presence cannot be recaptured on paper. His memorable sharing of ideas, stories, and illustrations, the joy and verve of his delivery, and the prolonged applause that almost always followed his speeches have been lost in time. The man, the matter, and the manner were fused admirably in Dr. Anspach, and that fusion can never be perceived in a textual reading. On the other hand, those fortunate ones who heard his speeches will recreate in mind's eye the familiar figure of Dr. Anspach on a platform sharing his talent in an act of human love for the brotherhood of man and the improvement of the world.

[From the Midland (Mich.) Daily News, Oct. 28, 1977]

ANSPACH LEFT TOP MARK IN HIGHER EDUCATION

Mr. Charles L. Anspach, who died in Mount Pleasant Tuesday, was one of the greatest university presidents Michigan has produced. In fact, you will find some people who believe he was the greatest.

You have to go back into history to fully appreciate his significance to higher education. Central Michigan University was a state teachers' college with an average enrollment of 1,200. Under Mr. Anspach's 20 years of leadership, it grew into a full-fledged liberal arts university with a widely varied curriculum. Today it is one of the outstanding universities in Michigan.

"Charlie," as he was affectionately known, was the master of the soft sell when he appeared before legislative committees in Lansing and before the legislature itself. Other educational leaders often were inclined to organize pressure for more funds. But his pitch was simply to ask legislators to do the best they could and CMU would carry on the best it could. We've never compiled statistics but our memory is that he always fared better financially than his more urgent counterparts.

He was a college President . . . a building interesting conversationalist and an inveterate story teller who delighted audiences throughout the state. Midland people knew him well for he was a favorite speaker at dinners and also was active on the Northwood Institute campus. A 33rd degree Mason, he was active in many Masonic affairs of the Saginaw Valley.

When he left CMU, or rather became president emeritus, the student population had grown to 5,000 and it has continued to soar. He remained in Mount Pleasant and continued to use a CMU office for writing and consultations. Just last year, he was chosen as Mount Pleasant's outstanding citizen.

Mr. Anspach's mark has been indelibly engraved in the annals of Michigan higher education. He was indeed a man to remember.

[From the Mount Pleasant (Mich.) Morning Sun., Oct. 26, 1977]

CHARLES ANSPACH: A SPECIAL PERSON

Charles L. Anspach led a successful life no matter how his 82 years are evaluated.

He was a college resident . . . a building was named after him . . . he was an author and a noted speaker . . . his ability in educational administration was beyond reproach . . . and his service to civic organizations such as the YMCA has been noteworthy.

And yet with a list of accomplishments and credits longer per decade than most people achieve in their lifetime, Charles L. Anspach still was a simple man. Unlike the traditional collegial administrator, Dr. Anspach would not snub his nose at the little people . . . nor would he forget them.

Many of those contacted by the Morning Sun Wednesday in regard to Dr. Anspach's recent death recognized that although his professional and educational abilities were great, it was probably his ability to communicate with people on a personal level that made him so special.

One faculty member at Central Michigan University who had served during Dr. Anspach's 20 years as president recalled the man's great concern for students, even after they left CMU. "Many times I have had students tell me they received a note from Dr. Anspach, taking note of a special achievement," the faculty member said. "This really impressed them that a president of a university would take the time to write little notes like that."

And it was his great concern for detail that stuck with him, even after his service as CMU's president ended in 1959. He was a member of the Isabella Bank and Trust Board of Directors as well as being on the Board of Regents at Eastern Michigan University following his retirement as CMU's chief executive.

In these capacities, he served as somewhat of a goodwill ambassador . . . congratulating community residents on their achievements with little cards.

Consequently, his ability to turn every day life into a personal relationship with those he met, is a big reason he will be missed.

He touched thousands of people's lives. From students . . . to faculty members . . . to administrators . . . to those in the community. A statement from Washington, D.C., illustrates his effect on Sen. Robert Griffin, who attended Central during Dr. Anspach's tenure as president.

"Charlie Anspach was an inspiration and a warm friend," Griffin said. "His wisdom, his wit and his example will live on in the memories of thousands whose lives were touched by this great American . . ."

However, CMU itself may be paying its former chief executive the largest tribute. Classes will be suspended Friday from 1:30 to 3:30 to allow for attendance at Dr. Anspach's funeral.

That time will give CMU—and the entire Mount Pleasant community—an opportunity to pause and reflect on this outstanding individual.

And, although the sadness of his passing will be evident, perhaps the twinkle in his eye, the chuckle in his voice and the drive of his spirit will continue to live on in CMU and the entire Mount Pleasant community.

HIRO HIGUCHI, HAWAII'S CHURCH BUILDING CHAPLAIN BREAKS GROUND FOR NEW PROJECT

Mr. MATSUNAGA. Mr. President, when asked to identify the outstanding traits of the American character, foreigners often name confidence, hope, and faith in the future. I have always maintained that these traits are exemplified not only by the activities of the great Amercans listed in our history books, but in the millions of ordinary, everyday acts of courage and faith by average citizens—citizens such as the Reverend Hiro Higuchi, known in Hawaii as the Church Building Chaplain.

I have had the privilege of knowing Hiro Higuchi for many years—ever since he volunteered for service as chaplain of the famed 442d Regimental Combat Team in World War II. A staunch pacifist, he nevertheless joined the Army along with young members of his YMCA chapter in Honolulu and served with such distinction that he was awarded five medals for valor. The famed "Go for Broke" unit was engaged in some of the heaviest combat of the entire war in Italy, France, and Germany, and many of its members were killed in action or seriously wounded. Through it all, the chaplain's faith never wavered. He used to tell the members from Hawaii that when he got back home, he was going to build a church with his own hands—his life's ambition. Mr. Higuchi's influence and inspiration were so compelling that members of the 442d promised to help him build his church when they got home. And they did. In the 30 years since their discharge, those veterans and Mr. Higuchi's many other friends in Hawaii have helped him build not one church, but five, with his own hands and theirs. He also found time to build a community swimming pool on the Island of Kauai and a visitors' pavillion at the Waimano Training School for the Handicapped and a hospital on the Island of Oahu, and to serve as an active member of numerous civic organizations while continuing his ministry.

Now 70 years old, and still recuperating from a serious heart attack earlier this year, the Reverend Higuchi has just launched his sixth church building project. The new sanctuary is located in the community of Waipahu, where his first church was constructed after World War II. Ground breaking ceremonies were held in early October and, on weekends, members of the church and community can be found on the site helping to raise the walls. On weekdays, Mr. Higuchi works alone. Soon there will be another visible symbol of the confidence and faith that he passes on to all who come into contact with him.

As a means of congratulating my good friend the Reverend Hiro Higuchi, and with the thought that my colleagues will find his story as inspiring as I have found, I am submitting for the RECORD an editorial from the Sunday Star-Bulletin and Advertiser of October 23, 1977. I ask unanimous consent that it be printed in the RECORD.

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

[From the Star Bulletin and Advertiser, Oct. 23, 1977]

HAWAII'S HIRO HIGUCHI

A community is desirable to live in depending on various conditions.

They include the presence of moderate climate; geographic beauty; vibrant, upright

businesses; wise, honest political leaders; and private individuals who contribute in their own good ways.

One such individual Hawaii has been fortunate to have is the Reverend Hiro Higuchi. We think of him now because at age 70, he's just started another do-it-yourself church building project.

Ground breaking took place at the Waipahu United Church of Christ last Sunday. On weekday mornings, Higuchi is likely to be working on the premises alone—moving rocks here, nailing boards there. On weekends, church members pitch in, sometimes with others in the community helping as well.

Higuchi—with his wife, Hisako—has been through it before. He led in putting up the Pearl City Community Church and the Manoa Valley Church the same way. He also was instrumental in renovating a church in Waialua and one in Lanai City.

On Kauai, he organized a citizens' volunteer effort to build a community swimming pool in Waimea in the mid-'50s. Back on Oahu, he headed a Lions Club effort to build the visitors' pavilion at the Waimano Training School and Hospital in the late-'50s.

He started in Waipahu, where he is once again. He led in putting up a do-it-yourself church building in 1950. That was meant to be a social/ education center. Plans called for constructing a separate chapel. But when Higuchi moved on, no one finished the job. So, though officially retired and at times seriously ill in recent years, he's returned to do it.

Higuchi served as chaplain of the famed 442nd Regimental Combat Team in World War II. He was a pacifist but signed up after 135 members of his YMCA group enlisted.

In Europe, some 442nd soldiers promised that after the fighting they would help him build a church back home. Many of them have, time and again.

Among his activities, he once served on the State Board of Paroles and Pardons. He resigned in 1960, protesting what he considered "gestapo tactics" used to malign then prison warden Joe Harper. The issue was "human dignity and fundamental rights," he declared at the time.

In 1964, while on then-Governor John A. Burns' Prison Site Advisory Committee, he alone among five members voted to build the new prison on Oahu instead of Maui. He knew that family visits would be easier and that professional services would be more available on Oahu than Maui. He gave those considerations priority. That view now prevails.

Hiro Higuchi has long stood effectively for conscience and humane values. Our community owes him a great deal.

Now, pass him the hammer again.

DEATH OF HENRY F. CAUTHEN

Mr. THURMOND. Mr. President, only one man has ever served as editor of both the daily newspapers of Columbia, S.C. That man was Henry Cauthen, one of the most dedicated and talented journalists that my State has produced. Death overtook Henry Cauthen, at the age of 76, on October 23. He leaves behind him, however, a record of achievement which is imperishable, and I wish to pay him a few words of tribute.

The boyhood of Henry Cauthen provided ideal preparation for a career in journalism in South Carolina. The son of a Methodist minister, himself a former newspaperman, Mr. Cauthen traveled all over the State as his father was dispatched, in the Methodist manner, to one parish and then another. Mr. Cauthen lived in no fewer than eight South Carolina communities—Timmonsville, Kingstree, North Augusta, York, Walterboro, Georgetown, Darlington, and finally Charleston. As a result, he knew the State inside and out.

He knew the newspaper business the same way. It was in Charleston that he began his career. He worked first as a reporter at the News and Courier, moving up to telegraph editor, State news editor, and then sports editor. He found this last assignment especially congenial, for he was an outstanding athlete himself. Tennis was his best sport, and he was tennis champion of the city of Charleston in 1927.

Mr. Cauthen spent 14 years with the News and Courier. After a brief period with a weekly newspaper in Charleston, he left that city for Columbia. There he joined the staff of the Columbia Record, where an old friend from Charleston, G. A. Buchanan, had established himself as president and editor. Mr. Cauthen always liked reporting best, but he continued to add to the long list of editorial positions which he occupied. He served as city editor for the Record, then managing editor, and finally editor. He succeeded to this position in 1957, when G. A. Buchanan became dean of the school of journalism at the University of South Carolina.

Three years later, he gained his unique distinction when he was named editor of the other Columbia daily, the State. He occupied this post for 6 years.

These 44 years in journalism yielded uncountable accomplishments and adventures. One of the most memorable was a 1-minute accidental interview with President Calvin Coolidge. President Coolidge was notorious for his silence and love of privacy, but Mr. Cauthen caught him by surprise once as a reporter in Charleston, elicited a few sentences, and thus won a major scoop.

Mr. Cauthen also added an important entry to the geographical dictionary of my State. Most of the regions of South Carolina have long had informal designations by which they are commonly known—nicknames, so to speak. We have the Piedmont, the Pee Dee, and the Low Country. For a long time, however, there was no designation for the central portion of the State, the capital city of Columbia and its environs. Henry Cauthen invented one—the Midlands. This term, largely as a result of Mr. Cauthen's assiduous promotion of it on his editorial page, is now as common as the others.

Another important cause which Henry Cauthen promoted while editor of the Record was highway construction. Those in this body who have had the pleasure of traveling by car through South Carolina will concede, I am sure, that our State has some of the most convenient, best engineered, and most scenic interstate highways in the country. Henry Cauthen could claim much of the credit.

In 1955, after a trip to North Carolina to see the new interstate highway between Raleigh and Durham, he wrote a series of six articles describing his impressions and advocating swift construction of similar highways in South Carolina. So eloquent were his words, so compelling his arguments, that the State highway department had the series reprinted and distributed to all members of the State legislature. The State legislature promptly enacted the enabling legislation for participation in the Interstate system, and construction got underway.

My colleagues are well aware that journalism is a most demanding profession. The hours are long and the pressures great. Many fine journalists find that they have no time, or no energy, for anything but their work. Not so with Henry Cauthen. One of the most endearing qualities of the man was the diversity of his interests.

I have already mentioned his love of sports. Music was another passion—particularly grand opera. He knew many songs from the great operas by heart, and would sometimes regale his less cultured colleagues with renditions of them. He was a past president of the Columbia Music Festival Association.

He had also been an officer and director of the Columbia Chamber of Commerce, president of the South Carolina Traffic Safety Council, and, true to his upbringing, a steward of the Wesley Memorial United Methodist Church.

After retirement in 1966, Mr. Cauthen wrote two interesting biographies. The first was entitled "John J. Dargan: His Dares and His Deeds," and the second, completed not long before Mr. Cauthen's death, has as its subject the American agriculturist William B. Camp.

The newspaper business, however, came first in his life, and it is here that his talents found their best employment. Not only was he a skilled writer—a man with an instinctive gift for the English language—but he had the knack for dealing with people which must accompany literary ability in the successful editor. Henry Cauthen will long be remembered by those who had the privilege of working with him. Indeed, dozens of his younger colleagues virtually learned their profession from him. The influence of Henry Cauthen is still felt, and will be for many years, in the journalism of South Carolina.

Mr. President, Henry Cauthen was not only an exemplary newspaperman, but an exemplary man as well. Inquisitiveness, affability, dedication to duty, fairmindedness, integrity—these are just a few of his fine qualities. It was a source of joy and of pride to have him as a friend. There are many, many heavy hearts in my State as a result of his death.

None are heavier than those of his family, to which he was devoted. In this time of bereavement, I offer my sincere condolences to his wife, Mrs. Sarah Norris Cauthen, of Columbia; his son, Henry F. Cauthen, Jr., of Charleston; his daughter, Mrs. Sarah Cauthen Stepp, of Columbia; his brother, Jennings Cauthen, of Charleston; and his four grandchildren, Henry F. Cauthen III, Capers Landrum Cauthen, Carrie Stepp, and Thomas Cauthen Stepp. Only time can assuage the sorrow that they now feel, but it should be some consolidation to realize, as I know they do, the privilege

they had in being so close to this outstanding man.

Mr. President, at the time of the death of Henry Cauthen, the newspapers of my State, recognizing his service to the profession, were full of articles in his honor. In order that these articles may be given wider distribution, and may serve to inspire others to initiate the good works of Henry Cauthen, I ask unanimous consent that they be printed in the RECORD.

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

[From the Columbia, (S.C.) State, Oct. 24, 1977]

HENRY F. CAUTHEN, RETIRED EDITOR, DIES

Henry F. Cauthen, former editor of The State and The Columbia Record, died at 12:15 p.m. Sunday at the Providence Hospital after a long illness. He was 76 years old.

Mr. Cauthen was the only person ever to serve as editor of both Columbia newspapers.

Services will be at 11 a.m. Tuesday at the Wesley Memorial Methodist Church. Burial will be in Greenlawn Memorial Park.

Dunbar Funeral Home, Devine Street Chapel, is in charge.

Mr. Cauthen's active newspaper career covered 44 years. It began in 1921 when he became a reporter for The News and Courier of Charleston. He retired as editor of The State in 1965, after five years in the post, but continued in semi-active service.

In Charleston, after his apprenticeship as a reporter, he served successively as telegraph news editor, state news editor and sports editor.

Withdrawing from The News and Courier in late 1935 to participate in a new weekly newspaper in Charleston, he was to find that venture a failure and in October 1936, returned to daily newspaper reporting, this time on The Columbia Record. This renewed an association begun in Charleston, with G. A. Buchanan Jr., then the president and editor of The Record.

Mr. Cauthen often said there is no higher role in newspapering than first-rate reporting, and said it was the function he liked best, although from the beginning newspaper structuring had been a prime interest.

He was to become city editor and then manager editor of The Record. When Mr. Buchanan was appointed dean of the School of Journalism at the University of South Carolina, Mr. Cauthen, in 1957, succeeded him as editor. He had served 15 years as the Record's managing editor.

During this period, he promulgated the idea of designating the central area of the state, informally, as the Midlands. He noted, in his presentations, that other sectors of South Carolina indulged in regional names—the Piedmont, the Pee Dee, the Lowcountry—but that the central area, with Columbia as a hub, was, in this respect, something of a "no man's land." He lived to see the name catch on and to be used by businesses, by institutions and by the Weather Bureau.

After his retirement as editor, Mr. Cauthen wrote *John J. Dargan: His Dares and His Deeds* and a recently completed biography of William B. Camp, a major American agriculturist.

Also, while managing editor of The Record, Mr. Cauthen was dispatched on a mission which, Highway Department officials said, hastened the beginning of the Interstate freeways in the state.

Ambrose G. Hampton had joined the newspapers in 1955 after a career as a highway engineer. (He was destined later to become president, published and chairman of these newspapers.)

Mr. Hampton, as a senior engineer of the U.S. Bureau of Roads, had played a decisive role in creating controlled-access freeways in North Carolina. He was anxious for South Carolina to do likewise.

In his post with the newspapers, he suggested that Mr. Cauthen go to North Carolina, talk to federal and state highway officials and drive over the freeway from Raleigh to Durham and write his impressions in The Record.

The result was six articles by Mr. Cauthen. They cited the virtues of the North Carolina achievement and pointed to the necessity of South Carolina preparing immediately for its part in the blossoming Interstate System.

The South Carolina Highway Department republished the articles in booklet form and sent copies to all members of the Legislature. At the next session, the enabling legislation for South Carolina to qualify for the great Interstate freeways was passed. Highway officials said the articles in The Record hastened the vital legislative decision.

In 1960, with the retirement of S. L. Latimer Jr., as editor and publisher, Mr. Cauthen was appointed editor of The State and continued in that post until 1966, when he reached the stated age of retirement. He was succeeded by W. D. Workman, Jr., who for three previous years had been associate editor.

Following retirement, Mr. Cauthen exercised an interest in agriculture by writing weekly articles on that subject, based on visits to farms and to various farm meetings. Once more, he was in the area of reporting and often expressed his satisfaction over that renewed opportunity.

While a young reporter in Charleston, he had an unusual interview with then President Calvin Coolidge. Brief as was the conversation, it was unique since Mr. Coolidge avoided direct contact with the press and instead used a "spokesman" for his communications with the public.

The President had been on a trip to the Caribbean on a naval vessel and was returning to Washington by train, which was to make a brief stop at railroad yards just outside of Charleston. Doubting that they would see anything but another train, Mr. Cauthen and a reporter for The Charleston Evening Post, Nolly J. Sams, decided nevertheless to give it a try.

They stationed themselves at the rear of the train, hoping that at least some member of the presidential party might appear on the platform. Then, to their amazement, the President himself, alone, came out.

Mr. Cauthen, shocked, did manage to say, "Good morning, Mr. President; we hope you enjoyed your trip."

"The President never grants interviews," Mr. Coolidge said, rather coldly and started to re-enter his car. He paused and asked, "How is my friend, Dr. William Way?" (An Episcopal minister of Charleston.)

"He has been ill, it happens, but is improved," Mr. Cauthen replied.

"Give him my regards. Good day," said the President and disappeared.

It wasn't earth-shaking news, Mr. Cauthen would recall, but considering Mr. Coolidge's insulation from the press, it was an interview and made a lead, front page story for the Charleston newspapers.

Also, while Mr. Cauthen was in Charleston, where he attended the College of Charleston briefly, he won the tennis championship of the city in 1927.

In Columbia, Mr. Cauthen was once president of the Columbia Music Festival Association, the South Carolina Traffic Safety Council, and the Goodfellows Club. He was a former director and treasurer of the Chamber of Commerce and a steward of Wesley Memorial United Methodist Church.

He was born Jan. 1, 1901, at Cheraw, the son of the Rev. Henry Jennings Cauthen and Mary Finlayson Cauthen. His father being a Methodist minister and subject to that church's custom of moving pastors from one parish to another, Mr. Cauthen lived in eight South Carolina towns: Timmonsville, Kingtree, North Augusta, York, Walterboro, Georgetown, Darlington and Charleston. (His birth in Cheraw was due to his mother returning, for that occurrence, to the home of her parents, Mr. and Mrs. Henry W. Finlayson, there. At the time, his father was the pastor at Timmonsville, having been transferred from Cheraw.)

His father had been a newspaperman prior to entering the ministry and while pastor of Trinity Church, Charleston, had directed his son into the journalistic field.

Surviving Mr. Cauthen are his widow, Mrs. Sarah Norris Cauthen of Columbia; a son, Henry F. Cauthen, Jr. of Charleston; a daughter, Mrs. Sarah Cauthen Stepp; a brother, Jennings Cauthen of Charleston; and four grandchildren, Henry F. Cauthen III, Capers Landrum Cauthen, Carrier Stepp and Thomas Cauthen Stepp.

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His father had been a newspaperman prior to entering the ministry and while pastor of Trinity Church, Charleston, had directed his son into the journalistic field.

Surviving Mr. Cauthen are his wife, Mrs. Sarah Norris Cauthen of Columbia; a son, Henry F. Cauthen Jr. of Charleston; a daughter, Mrs. Sarah Cauthen Stepp; a brother, Jennings Cauthen of Charleston; and four grandchildren, Henry F. Cauthen III, Capers Landrum Cauthen, Carrie Stepp and Thomas Cauthen Stepp.

Pallbearers will be John A. Montgomery, W. D. Workman, Charles H. Wickenberg Jr., William E. Rone Jr., John V. Cauthen, Henry J. Cauthen, C. H. Grayson and Rudolph Barnes.

Memorials may be made to the charity of one's choice.

[From the Charleston, (S.C.) News and Courier, Oct. 24, 1977]

HENRY FINLAYSON CAUTHEN, RETIRED EDITOR, DIES AT 76

COLUMBIA.—Henry Finlayson Cauthen, 7 retired editor of The State and former state news editor and sports editor of The News and Courier, died Sunday at a Columbia hospital.

The funeral will be 11 a.m. Tuesday at Wesley Memorial United Methodist Church, with the Rev. Melvin E. Derrick, the Rev. D. A. Canaday, and the Rev. Thomas F. Matthews Sr. officiating. Burial will be in Greenlawn Memorial Park, directed by Dunbar Funeral Home.

Mr. Cauthen was born in Cheraw, a son of the late Rev. and Mrs. Henry Jennings Cauthen. He was married to the former Miss Sarah Elizabeth Norris off Abbeville County.

He began his newspaper career in 1921 as a reporter for The News and Courier, where he worked 14 years as a reporter, state news editor and sports editor.

In October 1936 he joined the staff of The Columbia Record, later becoming State House correspondent, city editor, managing editor, and in 1958, editor.

On Jan. 1, 1961, Mr. Cauthen was appointed the sixth editor of the The State. After 45 years in newspaper work, he retired in 1965.

While a reporter at The Columbia Record, Mr. Cauthen wrote a series of articles on the freeway system in North Carolina and the need for South Carolina to prepare to prepare for the blossoming interstate system.

The State Highway Department reproduced the articles in booklet form and sent them to members of the General Assembly and during the next legislative session, enabling legislation qualifying South Carolina for interstate freeways was passed. State Highway Department officials credited Mr. Cauthen's articles with the legislature's speedy action.

He had served as president of the Columbia Music Festival Assn., a director and treasurer of the Columbia Chamber of Commerce, a director of the S.C. Traffic Safety Council, president for 10 years of the Goodfellows Club and its Christmas charity, and a member of the board of Stewards of Wesley Memorial Methodist Church.

In Charleston, Mr. Cauthen is best remembered as sports editor in the early 30s when Henry Picard rose from status as an obscure golfer at the Country Club of Charleston to one of the top pros in the country.

While a young news reporter in Charleston he had an unusual interview with then President Calvin Coolidge. It was the President's policy to hold no interviews with the press except with the use of a spokesman.

Coolidge had been on a trip to the Carribbean and returned by train to Washington, making a brief stop in the railroad yard near Charleston. Although he expected nothing from the President, Mr. Cauthen and a reporter from the Evening Post, Nolly J. Sams, stationed themselves at the railroad yard. To their surprise, Coolidge came out on the platform alone.

Mr. Cauthen, shocked, said, "Good mornin, Mr. President. We hope you enjoyed your trip."

Coolidge replied, "The President never grants interviews," and started to walk away. He then asked, "How is my friend Dr. William Way" (an Episcopalian minister in Charleston)?"

"He has been ill, but is improved," Mr. Cauthen said.

"Give him my regards. Good day," Coolidge said, and disappeared.

While it was not earthshaking news in what he said, the President did grant a rare interview, and it made the front page of The News and Courier.

Surviving, in addition to his widow, are: a son, Henry F. Cauthen Jr. of Charleston; a daughter, Mrs. Sarah Cauthen Stepp; a brother, Jennings Cauthen of Charleston; four grandchildren, Henry F. Cauthen III, Capers Landrum Cauthen, Carrie Stepp and Thomas Cauthen Stepp.

[From the Charleston (S.C.) Evening Post, Oct. 24, 1977]

HENRY CAUTHEN, RETIRED EDITOR, DIES IN COLUMBIA

Henry Finlayson Cauthen of Columbia, retired editor of The State newspaper and a former state news editor and sports editor of The News and Courier, died Sunday at a Columbia hospital.

Funeral services will be held at 11 a.m. Tuesday at Wesley Memorial Methodist Church, Columbia. Burial, directed by Dunbar Funeral Home of Columbia, will be in Greenlawn Memorial Park.

Cauthen began his newspaper career in 1921 as a reporter for The News and Courier, subsequently serving as state news editor and sports editor. He joined the editorial staff of The Columbia Record in 1936 and subsequently became its State House correspondent, city editor and managing editor. In 1958 he was named editor and two years later became editor of The State. He retired in 1965.

He was born Jan. 1, 1901, in Cheraw, a son of the Rev. Henry Jennings Cauthen and Mary Finlayson Cauthen. As the son of a Methodist minister, Cauthen lived in Timmonsville, Kingstree, North Augusta, York, Walterboro, Darlington and Charleston, where his father died while pastor of Trinity Church.

Cauthen was a former president of the S.C. Associated Press Association, the Columbia Goodfellows Club and its annual Christmas charity program and of the Columbia Music Festival Association.

He was a director of the S.C. Traffic Safety Council, a steward of Wesley Methodist Church, a member of the American Society of Newspaper Editors and the Columbia

Rotary Club and a director of the Columbia Chamber of Commerce.

Surviving are his wife, Sarah Elizabeth Norris Cauthen of Columbia; a son, Henry F. Cauthen Jr. of Charleston; a brother Jennings Cauthen of Charleston; a daughter Sarah Cauthen Stepp of Columbia and four grandchildren.

[From the Greenville (S.C.) News, Oct. 24, 1977]

FORMER EDITOR DIES

COLUMBIA.—Henry F. Cauthen, a newspaperman for 44 years and editor of two South Carolina dailies, died Sunday at a Columbia hospital. He was 76.

Cauthen's newspaper career began in 1921 when he became a reporter for the Charleston News and Courier. He served as telegraph news editor, state news editor and sports editor before leaving the paper in 1935 to participate in a weekly newspaper in Charleston.

That venture failed and in October 1936 he returned to daily newspaper work as a reporter for The Columbia Record. During his 24 years there, he served as city editor, managing editor and editor.

In 1969 he became editor of The State in Columbia and held that position until his retirement in 1965.

Services will be 11 a.m. Tuesday in the Wesley Memorial United Methodist Church in Columbia. Burial will be in Greenlawn Memorial Park.

[From the Greenville (S.C.) Piedmont, Oct. 24, 1977]

CAUTHEN RITES ARE TUESDAY

COLUMBIA.—Services will be held Tuesday in Columbia for retired newspaperman Henry F. Cauthen, who died Sunday at the age of 76.

Cauthen, who served as editor of The State and The Columbia Record during his 44-year journalism career, died at a local hospital.

His funeral will be at 11 a.m. in the Wesley Memorial United Methodist Church, conducted by the Rev. Thomas F. Matthews Sr. and the Rev. Melvin E. Derrick. Burial will be in Greenlawn Memorial Park.

Cauthen's start in the newspaper business came in 1921 when he went to work as a reporter for the Charleston News and Courier. During 14 years there, he served as telegraph news editor, state news editor and sports editor.

In 1935 he participated in an effort to begin a weekly newspaper in Charleston, but the venture failed and he returned to daily newspaper work in October 1936, when he was hired as a reporter for The Columbia Record. He served as city editor, managing editor and editor of the paper before becoming editor of The State in 1960.

He held that position until his retirement in 1965.

Cauthen was born Jan. 1, 1901 in Cheraw. He was a son of the Rev. Henry Jennings Cauthen and Mary Finlayson Cauthen.

Survivors include his widow, Mrs. Sarah Norris Cauthen of Columbia; a son, Henry F. Cauthen Jr. of Charleston; a daughter, Mrs. Sarah Cauthen Stepp; a brother, Jennings Cauthen of Charleston; and four grandchildren.

[From the Charleston (S.C.) Evening Post, Oct. 24, 1977]

HENRY F. CAUTHEN

Son of a Methodist minister, Henry F. Cauthen was born in Cheraw and lived in several other South Carolina towns to which his father was assigned. The family moved to Charleston, where he grew up and found a job with The News and Courier when it was published at 19 Broad St. After 14 years with The News and Courier, he moved in 1936 to Columbia, and in 1958 was appointed editor of The Columbia Record. In 1960, he became editor of The State, the first person to be editor of both Columbia newspapers. He retired in 1965.

A respected craftsman, Mr. Cauthen broke in as a reporter for The News and Courier in the 1920s, when Robert Lathan was editor and Thomas P. Lesesne managing editor. Later he became state news editor, and then sports editor. His two brothers—Jennings Cauthen and the late John K. Cauthen—also served on the Charleston newspaper, and his niece, Elizabeth Moye, is now editor of their Trends and Focus on Living sections.

Sports and music were two of his chief interests. Lacking a college education, he was a reader of books and a student of writing style, in which he became proficient early in his journalistic work. Henry Cauthen was known as a man of principle and integrity. His death at age 76 is a source of sorrow among many friends and colleagues in South Carolina and elsewhere.

[From the Columbia (S.C.) Record, Oct. 25, 1977]

HENRY F. CAUTHEN

Were tongue able to compress into universal brevity the meaning of one Carolinian's life and deeds for all of us, of Henry F. Cauthen's death a familiar simplicity would be best: "Well done, thou good and faithful servant."

Throughout his earthly years, Henry Cauthen loved God's whole creation—the earth and all people dwelling thereupon, as conscientious stewards. He cared for Carolina and Carolinians, in all walks of life, as he knew the rich loam of the coastal marshes and the red clay of the upcountry.

A journalist, he was the only person ever to serve as editor of both this newspaper and *The State*. As a superb craftsman, he asked of himself and others an unerring accuracy in the journalism of fact. As a Renaissance thinker, he pursued truth and wisdom with meticulous diligence in the journalism of opinion.

As a devotee of the riches of the English language, he puzzled over the absence of a "name" for central Carolina. And he, after deliberative thought over his pipe, conjured a "name" that endures for our whole section and its people: the Midlands. Whenever and wherever that name appears, the mark of Henry Cauthen endures.

His restless curiosity and fervor for man's daily endeavors and pleasurable pursuits led him to a bountiful devotion to diversities as varied as grand opera and tennis. He could sing memorable arias and was quite at home, as a younger man, on the tennis courts. He was the city tennis champion of Charleston when he worked on the newspapers there.

To the Methodist parsonage born, he tenaciously wrestled with the web of theology. As a gentle person who loved and served his fellowman, Henry Cauthen believed that the days of all men are numbered—as were his. And he would say: "Yet shall I see God: whom I shall see for myself, and mine eyes shall behold—and not as a stranger."

[From the Charleston (S.C.) News and Courier, Oct. 25, 1977]

HENRY F. CAUTHEN

Member of a newspaper family, Henry F. Cauthen began his career in journalism as a reporter for The News and Courier. In the years that followed, he proved himself a competent craftsman. He was adept at gathering the news and putting it down on paper. He thought clearly, wrote clearly and hewed to style.

Capable and reliable, he advanced to state news editor and then to sports editor of the Courier in the 1930s, an era regarded as the "Golden Age" of American sports. Leaving Charleston, Mr. Cauthen joined The Columbia Record, serving successively in positions of greater responsibility as Statehouse correspondent, city editor and managing editor. In 1958 he was promoted to editor of the Record and, two years later, he became editor of The State, the Record's sister newspaper. He retired in 1965.

Despite the demands on his time and energy imposed by newspaper jobs, Mr. Cauthen was active in civic promotion, charitable works and in protecting the public safety. A keen interest in music led to his service as president of the Columbia Music Festival Association. His death at 76 saddens professional colleagues throughout the state and many other friends who will remember him as a considerate man who believed in playing fair and writing straight.

[From the Columbia (S.C.) State, Oct. 25, 1977]

HENRY F. CAUTHEN
1901–77

The death of Henry Cauthen comes as a shock to his many friends, but it is nothing short of a calamity to those close friends who knew him best. As a close friend, he was unique.

His career as a newspaperman also was unique. Without formal training in journalism—indeed, he never had the opportunity of attending college—he rose from reporter to sports editor to managing editor and ultimately to editor. Although his newspaper work began in Charleston, most of it took place in Columbia, where he had the distinction of becoming the only man to serve as editor not only of The Columbia Record but, later, of The State. It was while editor of the Record that he successfully promoted the designation of central South Carolina as the "Midlands."

Mr. Cauthen's achievements in journalism were due to a natural command of the English language, a searching mind, and a true genius for dealing with people. His personal and professional interests were vast and varied, including sports, agriculture, and music. Grand opera appealed especially to him, and he was familiar with—and on occasion would sing—many well-known arias. He not only watched and wrote of sports, he was in his early years the city tennis champion of Charleston.

But he will be remembered most for a strength of character combined with a sense of humanity which made him both a gentleman and a gentle man.

In the words of Rudyard Kipling, he could "meet the Triumph and Disaster, and treat those two imposters just the same."

[From the Columbia (S.C.) State, Oct. 25, 1977]

CAUTHEN SERVICES TODAY

Services for Henry F. Cauthen, former editor of The State and The Columbia Record, will be 11 a.m. today at the Wesley Memorial United Methodist Church, conducted by the Rev. Thomas F. Matthews Sr., the Rev. Melvin E. Derrick and the Rev. Henry C. Barton Jr. Burial will be in Greenlawn Memorial Park.

Mr. Cauthen, 76, died Sunday at Providence Hospital after a long illness. He was the only person ever to serve as editor of both Columbia newspapers.

Mr. Cauthen's active newspaper career covered 44 years. It began in 1921 when he became a reporter for The News and Courier of Charleston. He retired as editor of The State in 1965, after five years at the post, but continued in semi-active service.

Pallbearers will be John A. Montgomery, W. D. Workman, Charles H. Wickenberg Jr., William E. Rone Jr., John V. Cauthen, Henry J. Cauthen, C. H. Grayson and Rudolph Barnes.

The family suggests that memorials to Mr. Cauthen may be made to the charity of one's choice.

[From the Columbia (S.C.) Record, Oct. 25, 1977]

HENRY CAUTHEN SERVICES HELD

Funeral services for Henry F. Cauthen, former editor of The State and The Columbia Record, were held today in Wesley Memorial United Methodist Church, conducted by the Rev. Thomas F. Matthews Sr., the Rev. Melvin E. Derrick and the Rev. Henry C. Barton Jr. Burial was in Greenlawn Memorial Park.

Pallbearers were John A. Montgomery, W. D. Workman, Charles H. Wickenberg Jr., William E. Rone Jr., John V. Cauthen, Henry J. Cauthen, C. H. Grayson and Rudolph Barnes.

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Memorials may be made to the charity of one's choice.

STATEMENT BY SENATOR CLARK ON SOUTH AFRICA AND THE BIKO DEATH

Mr. CLARK. Mr. President, the death while in police custody of Steve Biko, one of the most prominent black leaders in South Africa, has still not been explained in any satisfactory way.

Although he died on September 12, and the results of the autopsy were sent to the authorities, the government has postponed the inquest on Biko's death to late November. In the meantime, we have seen the Government of South Africa take repressive actions through massive detentions and bannings against a broad range of peaceful opponents of apartheid. In retrospect, it seems that the death of Biko was a prelude to the wider crackdown aimed at silencing the black consciousness organizations and various critics of the government, whether they be black or white.

The U.S. Congress has responded to these events with commendable promptness. On October 31, a resolution condemning these actions was passed in the House 347 to 54; the Senate Foreign Relations Committee passed an almost identical resolution on November 1 by a vote of 14 to 0. The effect of this resolution is to express congressional support for the President's decision to support a mandatory arms embargo at the United Nations and to take other unilateral actions to express our disapproval of the actions of the South African Government.

But as the clamor rises over the issue of how the international community should appropriately respond to the heightened repression in South Africa, we must not lose sight of the event which originally triggered the crisis and the ensuing debate. South Africa still must explain how Steve Biko died. This is essential for racial accommodation within the country, for credibility in South Africa's judicial system—one of the last remaining institutions preserving a measure of justice in the country, and for reducing the strained relations between South Africa and members of the free world looking for signs of peaceful change.

In connection with the Biko case, I would like to enter into the RECORD a verbatim transcript from a tape recording of the account of the imprisonment, treatment and death of Steve Biko given by the Minister of Justice, Mr. Jimmy Kruger, which was published in the Rand Daily Mail on September 19. As the newspaper indicates at the conclusion of Kruger's remarks, there were a number of inconsistencies and contradictions in Mr. Kruger's statement, particularly as compared to his subsequent remarks. Whatever the U.N. or the President decides to do, we cannot allow the question of Steve Biko's death to be forgotten else we risk being party to a cover up that will be of enormous significance for South Africa and her relations with the United States.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

BIKO: WHAT KRUGER TOLD THE NATS

(This is a verbatim transcript from a tape-recording of the account of the imprisonment, treatment and death of Mr. Steve Biko given by the Minister of Justice, Mr. Jimmy Kruger, to the Transvaal congress of the National Party last Wednesday.)

"I am not glad and I am not sorry about Mr. Biko. He leaves me cold. I can say nothing to you. Any person who dies . . . I shall also be sorry if I die. (Laughter)

"But now there are a lot of scandal stories (skinder stories) and all sorts of positions are now taken against the South African Police. And even if I am their Minister, Mr. Chairman, if they have done something wrong, I shall be the first man to take them before the courts. They know it.

"But what happened here? This person was arrested, as I said yesterday, in connections with riots in Port Elizabeth. Among other things they were busy with the drafting and distribution of extremely inflammatory pamphlets which urged people to violence and arson.

"Now I mention this fact, not because I want to criticise someone who is dead. I have respect for the dead. But I mention this fact to prove that we were justified in arresting this person.

"I don't think there is a person in the audience that will say to me: 'But man, I think the police should rather have left him. You should rather not have detained him in a prison.'

"He was caught with a coloured man, a certain Mr. Jones, and this man was questioned first by the South African Police.

"In other words, from his (Mr. Biko's) arrest on August 18—I assume that they asked certain things occasionally, I am not sure of that—but he did not undergo a long, intensive questioning from August 18 to September 5.

"On the fifth of September they were finished with the other man and then they came to him (Mr. Biko). And they began to question him.

"Then he said he would go on a hunger strike. He first said he would answer their questions. They should give him a chance for a quarter of an hour. After a quarter of an hour, he said no, he would go on a hunger strike.

"And indeed he began to push his food and water away—that were continually given to him, so that he would freely drink or eat.

"It is very true what Mr. Venter said (about prisoners in South Africa having the 'democratic right' to starve themselves to death). It is a democratic land.

"We are now asked: 'When you saw he went on a hunger strike, why didn't you force him to eat?' (Laughter.)

"Mr. Chairman, can you imagine that these same people who smear the police day and night because they touched this man—and there's a mark on his foot, and there's a mark on his ankle and here's a mark behind his ear and it must be the police—do you think the police must still force that man to eat?

"No, sir, I say now categorically an behalf of the police. If I was there I would have said. 'Do not touch him,' but would have said: 'Call a doctor.'

"And on that same day, September 7, the district surgeon was called in.

"Do you know, Mr. Chairman, now some newspapers come and they have really (wragtig) got the cheek to ask: 'Why didn't you bring in a private doctor?' (Laughter.)

"Look, you cannot win. That I understand. Sir, I have no illusions about the Press on this point, you cannot win. There will always be something.

"But a district surgeon is a private doctor. He gets an appointment as a district surgeon. In other words, if the State needs him, you must call him because he has an appointment as a district surgeon. Some of them are fulltime.

"I don't know what this one was. But the State officials cannot simply call private doctors. Then they must pay (them) personally.

"And, I say today, any newspaper that alleges it was irregular, sticks his finger in the eye of the medical profession, not the police's eye.

"That day (September 7), the district surgeon came.

"On the 8th September the man (Mr. Biko) still lay there on the mat. And then the police said: 'Don't just call the district surgeon. Let him come and look at this man.'

"The first district surgeon wrote a letter to the detective to say: 'There's nothing wrong with him. The chief district surgeon and the district surgeon told the Security Police: 'Man, there is nothing wrong with this man.'

"But on the 8th September they said: 'In any case, bring him to the prison. Look, he is now in a police cell at Walmer (Port Elizabeth).' They said: 'Bring him to the prison hospital where we have more instruments with which to see what's wrong with the man.'

"And he was moved to the Port Elizabeth prison.

"They kept him for observation. Now the Press comes. This morning, sir, I think it was the Rand Daily Mail. I am not sure. I made a mistake the other day. . .

"But nevertheless, the Press comes and asks: 'Why didn't you bring in a private doctor?'

"Do you know what we brought in? We brought in a private specialist. We had a specialist with this man. We said: 'Look at this man.'

"And on Sunday, September 11, after we had all those doctors and specialists, then the district surgeon said: 'Man, send him to one of the bigger hospitals.'

"He proposed Victor Verster or Pretoria, where they could keep this man under observation for a longer period, in conditions where he could not be disturbed by outsiders.

"You know if you take him to a private hospital then you must set up guards.

"Here in Pretoria is a prison hospital and we must take him there. And on that same night he was brought to Pretoria.

"Now, Mr. Chairman—and the Press loses sight of this—the day he came to Pretoria to the Pretoria Prison . . . he was totally out of that area of his actions and the police actions against him.

"He is now on neutral grounds. A person can put it nearly like that. He is totally out of Security Police hands.

"He is in the hands of the prison authorities who know nothing about his whole case. People who have simply received a warrant and (they) say: 'Bring him in and lay him down there. We shall organise to take him to the prison hospital at the appropriate time.'

"Immediately the district surgeon was phoned—who else? The Department of Prisons have nothing (against) this man. They are not there to question or interrogate him.

"They are not concerned with that. Here is a patient. They put him down and they say: 'Man, call the doctor. We have got a warrant for this man. He must be transferred to the prison hospital.'

"And here comes the district surgeon who knows nothing about the man and he examines him, an independent examination. And he treats him medically.

"I do not know what the treatment was and therefore I do not want to stick my neck out as far as that is concerned. I assume there will still be investigations. I don't know. But this doctor, whatever he did to the late Br. Biko—or gave to him or whatever, did not know him and I cannot see that he would have anything against this man. I think he treated the man to the best of his ability.

"Later that night—there is a peephole in these places, so that you can see that the people do not hang themselves . . .

"Incidentally, I can just tell the congress, the day before yesterday one of my own lieutenants in the prison service also committed suicide and we have not yet accused a single prisoner. (Laughter).

"And when this man came to look in the peephole he saw that the man (Mr. Biko) was lying very still. And he did not touch him and did not open the door. He did nothing. Because he also knows that if you touch him, they then say: 'Your fingerprint is there, what did you do?' He left the man. I do not blame him. He went back and told a man: 'The man (Mr. Biko) is lying dead still. There is something wrong. And they summoned the doctor and they found the person was dead.

"And we have instructed the chief pathologist, a specialist if there ever was one, sirs, of absolutely unquestionable reputation, we have another State pathologist and let the family know.

"His wife was not with him. We could not find her. We found the old mother and she said: 'These are my lawyers.'

"And they appointed another pathologist and these three people apparently held a post-mortem yesterday . . . I do not know what the result is.

"But, sir, I just want to tell the congress and I want to tell the Press: I expect nothing from them (the Press).

"I know, sir, I know because I have it in documents, I have it in secret documents in my file that they are going for us.

"They will search and search for loopholes (gatjiesen plekkies). Whether they will find them, I don't know. We are also only people.

"But from my point of view, on the facts that I have, it looks to me as if what had to be done was done . . .

"I know incidentally that a few of the opposition Press will try to make something of it. But if they want to do it, it is their right. Let them do it. Here is my congress, sir, to whom I wish to report and you can stand up and say: 'According to us ordinary members something went wrong.'

"But I say to you as Minister, that I cannot see how we could have acted differently."

(Cheers and applause.)

Since his report the Transvaal National Party congress, Mr. Kruger has said:

Mr. Biko died in a prison cell, not the prison hospital.

Mr. Biko was treated with an intravenous drip.

He (Mr. Kruger) never stated Mr. Biko had died of starvation.

He was not informed by the security police that Mr. Biko had gone on a hunger strike, although he knew that the black consciousness leader had been detained.

He is not prepared to state "categorically" that he is satisfied with the manner in which his officials handled the situation. He would await the medical reports.

HARASSMENT OF SMALL BUSINESS BY EPA

Mr. BUMPERS. Mr. President, I am disturbed by the apparent oppressiveness of an extensive questionnaire being served on all members of the wood-preserving industry by the Environmental Protection Agency. I ask unanimous consent that certain correspondence relating to this questionnaire, including a letter written to me by John W. Elrod, a friend and constituent in Rison, Ark., my reply to Mr. Elrod, and letters from me to the Honorable Douglas Costle, Administrator of the Environmental Protection Agency, and the Honorable James T. McIntyre, Jr., Acting Director of the Office of Management and Budget, be printed in the RECORD immediately following these remarks.

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

(See exhibit 1.)

Mr. BUMPERS. Mr. President, section 308 of the Water Pollution Control Act, 33 U.S.C. section 1318, authorizes and directs EPA to gather extensive information to enable it to carry out its responsibility of preserving water quality. In what I am sure has been a well-meaning effort to comply with this command of Congress, EPA has formulated and served upon some 600 businesses a voluminous questionnaire. In addition to inquiring about discharges of effluent, pollution-control equipment, and related matters, the questionnaire goes on to seek disclosure of almost every kind of confidential financial information with respect to the general business operations of the respondents, including all of their costs, what method of depreciation they use for accounting and tax purposes, what their profits are before and after taxes, what the value of their accounts receivable is, and what internal investment criteria they use in deciding whether their business is meeting a desired level of profitability. These questions are intrusive and unreasonable, and irrelevant to the ostensible purpose of the questionnaire. They do not seem to be information that the Administrator of EPA may "reasonably require" to carry out his statutory responsibilities, as required by section 308. Even if they are within the outer limits of statutory authority, a proper exercise of discretion should have led EPA not to go so far.

In addition, the questionnaire appears to violate the Federal Reports Act, title 44, United States Code, section 3501 to 3511. The form was never approved by the Office of Management and Budget. In fact, it was never even submitted for approval, although title 44, United States Code, section 3509, enacted in 1968, appears to require such submission unequivocally.

Mr. President, two things about this incident bother me particularly. First, if EPA has indeed violated the Federal Reports Act, it is in the anomalous position of threatening citizens with dire penalties, including imprisonment, for failure to answer a questionnaire whose very circulation by the Agency is itself a violation of law. The foundation of any kind of respect for law must be scrupulous adherence to the commands of Congress by officials of the Federal Government. In addition, even if the form were legal, it would still be ill-advised to inquire into intimate financial details of a business when these details have at best only peripheral relevance to the question of pollution control. This kind of imposition is especially burdensome to small businesses, many of which are among the 600 firms to which the questionnaire was directed. Government agencies should realize that small businessmen have neither the time nor the money to employ squads of lawyers, accountants, and clerks to fill out forms containing every conceivable piece of information that might be of interest. Common sense should limit such governmental inquiries, and I am hopeful that the attached exchange of correspondence, which I intend to pursue, may result in some change.

EXHIBIT 1

ELROD COMPANY,
Rison, Ark., October 13, 1977.

Senator JOHN L. MCCLELLAN,
Senator DALE BUMPERS,
Congressman RAY THORNTON,
Congressman BILL ALEXANDER,
Congressman JIM GUY TUCKER,
Congressman JOHN PAUL HAMMERSCHMIDT.

GENTLEMEN: I am enclosing a copy of the questionnaire sent me by the Environmental Protection Agency which I consider to be representative of the outrageous results of well intended but poorly administered legislation. Typically, the law provides for severe penalties up to $2,500.00 per day and a prison sentence for failure to provide the requested information. I direct your attention to questionnaire nos. 19, 20, 21, 22, 24, 25 and 26 and ask if you conceive of any legitimate reason why the agency should be entitled to such detailed information in regard to our finances. I would genuinely appreciate your efforts to eliminate this kind of "police state" procedure in regard to this agency and any others with similar inclination.

We are fast approaching the point in this country when small independent businessmen have a great deal of difficulty in characterizing this as a free country. The enclosed questionnaire is a good illustration of the reason why.

Yours very truly,

JOHN W. ELROD.

ELROD COMPANY,
Rison, Ark., October 13, 1977.

Mr. SWEPT T. DAVIS,
Environmental Protection Agency,
Washington, D.C.

DEAR MR. DAVIS: I enclose the 308 Questionnaire, Wood Preserving, which was sent us by your agency. It was addressed to Elrod Company but you will notice the questionnaire is answered by Fordyce Wood Preserv-

ing, Inc., because of a change in the organization as of Jan. 1, 1977.

I have not provided the detailed financial information on our operation because I do not believe the agency is entitled to that information. We have not yet had sufficient experience to know what the annual operation costs and depreciation charges will be on our water and air pollution equipment. I will be glad to furnish that part of the financial information requested when we have developed accurate information.

In line with your suggestions in our telephone conversation I have written "not available" beside the other requests for financal data which I do not believe we should be required to furnish.

I appreciate your helpful suggestions in regard to the questionnaire.

Yours very truly,

JOHN W. ELROD.

U.S. SENATE,
Washington, D.C., October 28, 1977.

JOHN W. ELROD,
Elrod Company,
Rison, Arkansas.

DEAR JOHN: I have your letter of October 13, and Richard has told me about your telephone conversations with respect to the "308 Questionnaire Wood Preserving" that you received from EPA.

You are quite right, of course, that the detailed financial data requested are wholly beyond the scope of Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318. Incidentally, I enclose a copy of that statute. The authority given by Congress to the Adminitrator of EPA to demand certain reports and information is limited to what "he may reasonably require" to carry out his statutory responsibilities. In addition, under Section 308(b), any records, reports, or information obtained "shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or new source performance standards. . . ." I cannot for the life of me understand how questions 19–22 and 24–26, listed in your letter, can meet either of these requirements.

A preliminary informal contact with EPA indicates that it may try to justify its action, at least in part, on the ground that the questionnaire was reviewed in advance at a meeting with a trade asociation known as the American Wood Preserving Institute. Do you know anything about this Association? I am told that the questionnaire was reviewed by this Institute and by unspecified "representatives of industry firms" on May 5 and June 22. Any trade association worth its salt would have objected strenuously to the intrusive questions included in this form, and perhaps such an objection was in fact registered.

In addition, the form was never approved by the Office of Management and Budget. In fact, it was never even submitted for approval. This omission is probably a violation of the Federal Reports Act, 44 U.S.C. §§ 3501–11. Specifically, 44 U.S.C. § 3509, added in 1968, provides that "a federal agency may not conduct or sponsor the collection of information upon identical items, from 10 or more persons . . . unless . . . —(1) the agency has submitted to the Director the plans or forms . . .; and (2) the Director has stated that he does not disapprove the proposed collection of information." The term "Director" refers to the Director of the Bureau of the Budget, which is now, of course, the Office of Management and Budget. A copy of this statute is also enclosed.

It is particularly irksome for a federal agency to threaten citizens with dire penalties when the agency itself may well be acting in violation of the law.

I take this incident seriously, and perhaps some good will come from it if we can get the attention of the agency heads involved. I have therefore directed letters to the Administrator of the Environmental Protection Agency and to the Acting Director of the Office of Management and Budget. Copies of these letters are enclosed. Copies are going also to Senator Jennings Randolph, Chairman of the Committee on Environment and Public Works, and Senator Abraham Ribicoff, Chairman of the Committee on Governmental Affairs. These Committees have oversight jurisdiction, respectively, over EPA and OMB.

When I have answers to any of these letters, I will share them with you. I appreciate your calling this troublesome situation to my attention. It is exactly the kind of thing that causes citizens to lose faith in their government.

Sincerely yours,

DALE BUMPERS.

U.S. SENATE,
Washington, D.C., October 28, 1977.

Hon. DOUGLAS COSTLE,
Administrator, Environmental Protection Agency, Washington, D.C.

DEAR MR. COSTLE: John W. Elrod of Rison, Arkansas, a friend and constituent of mine in the wood-preserving business, has called my attention to a disturbing questionnaire issued by your Agency. The form is styled "308 Questionnaire—Wood Preserving" and includes 25 detailed questions with respect to Mr. Elrod's business of wood preserving. Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318, is cited as authority for the right to demand answers to these questions. There is no doubt that Section 308 authorizes your Agency to gather extensive information, and you must do the job thoroughly in order to carry out the command of Congress. If you would take the time, though, to look at the individual questions posed, I think you will agree that a number of them, specifically questions 19–22 and 24–26, go beyond any conceivable scope of EPA's authority. These questions seek disclosure of almost every kind of confidential financial information with respect to the general business operations of the respondent, including all of his costs, what method of depreciation is used for accounting and tax purposes, what his profits are before and after tax, what the value of his accounts receivable is, and what internal investment criteria he uses in deciding whether his business is meeting a desired level of profitability.

If you are of the opinion that judicial interpretations of § 308 authorize these questions, would you please give me citations to the reported opinions?

Mr. Elrod has discussed the questionnaire with personnel of your Agency and has returned it, so the issue is not his individual case. The question is much broader than that and goes to the heart of public discontent with government. It seems to me that the interest of the public at large, as well as of EPA itself, would be well served if you would examine this questionnaire closely and make an effort in the future to limit this kind of imposition on private citizens.

In addition, I understand that the questionnaire was not cleared by OMB, as required by the Federal Reports Act, 44 U.S.C. §§ 3501–11. In fact, it was not even submitted for clearance. Your Agency's covering letter to Mr. Elrod threatens severe penalties, including possible imprisonment, if he should fail to answer the questionnaire fully. Such penalties are of course provided for by law and no doubt should be imposed in appropriate cases. It is especially important, on the other hand, that government agencies and officials themselves abide by the law, and this instance is a case in point. I can see no reason why the form should not have been submitted to OMB under 44 U.S.C. § 3509. If it had been, I cannot help believing that that Agency would have disapproved the form, reduced its size considerably, or at least made a number of helpful suggestions.

Would it be your intention to submit future similar forms for clearance?

You might also consider whether it would have been a good idea to consult with the Commission on Federal Paperwork, created by P.L. 93–556, 88 Stat. 1789, 44 U.S.C. § 3501 note.

I appreciate the many courtesies shown me by your Agency and look forward to your answer.

Sincerely yours,

DALE BUMPERS.

U.S. SENATE,
Washington, D.C., October 28, 1977.

Hon. JAMES T. MCINTYRE, Jr.,
Acting Director of the Office of Management and Budget, Washington, D.C.

DEAR MR. MCINTYRE: Enclosed is a copy of a questionnaire served by EPA on several hundred businesses engaged in wood preserving. It was brought to my attention by John Elrod of Rison, Arkansas, a friend and constituent of mine.

You will notice that the questionnaire contains no OMB clearance number. It is my information that it was never submitted for clearance. This omission appears to be a violation of the Federal Reports Act, 44 U.S.C. § 3509. If you would take the time to look at the form in some detail, you will probably conclude, as I have, that it leaves a great deal to be desired. Specifically, many of the questions on financial subjects seem clearly to go beyond the authority of Section 308 of the Water Pollution Control Act, 33 U.S.C. § 1318. Beyond that, and even if the questions are within the outer limits of legal authority, it seems to me that some discretion should have been exercised in an effort to limit the intrusiveness of the form. It also seems that future similar forms should be submitted to your Agency for approval.

If you could consider these points and advise me, I would be most grateful.

Sincerely yours,

DALE BUMPERS.

VOLUNTARY CROP INSURANCE PROGRAM

Mr. HATHAWAY. Mr. President, I ask unanimous consent that I be listed as a cosponsor of S. 1575, Senator HUDDLESTON'S bill establishing a voluntary crop insurance program.

It is my understanding that Senator HUDDLESTON has no objection to this.

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

Mr. HATHAWAY. The time has come to explore new approaches to crop insurance.

S. 1575, for example, establishes three levels of coverage, ranging from insurance against loss of such direct, annual costs as labor, power, seed and fertilizer; to going on up to a level which includes taxes, electricity, farm auto costs; and culminating in a high-choice option that provides insurance benefits for land charges and management.

The higher the level, the higher the premium, of course. In addition, the Secretary would set levels of subsidy for these premiums and I understand the Secretary of Agriculture intends to subsidize most heavily the basic coverage.

Hearings will be held on this bill early in 1978 and I look forward to having the opinions of the various constituencies of this bill.

It is apparent that with farm costs rising, insurance, even with a Federal subsidy, is increasingly attractive as a means of dealing with adverse events in the field. And it may well be that, like flood insurance, it is cheaper to insure than to rely on ad hoc disaster programs.

PRESIDENTIAL APPOINTMENTS

Mr. MATHIAS. Mr. President, I wish to commend to my colleagues an excellent article that appeared in the October 1977 issue of Foreign Service Journal entitled, "Presidential Appointments." It makes the same point I have been insisting on for a long time now. Our ambassadorial appointments abroad should be based on competence, not on politics.

The greatest reservoir of professional talent is, of course, the career Foreign Service. The State Department holds a reservoir of trained talent which has not been sufficiently tapped either for filling many of the important ambassadorial slots or the key slots in the foreign policy establishment. There is absolutely no excuse for 46 percent of President Carter's chief of mission nominations to have been individuals from outside the career Foreign Service. Equally disturbing is the fact that "a year ago there were 16 career officers in the top 25 positions—in the State Department. Today there are six." I imagine this record must discourage many Foreign Service officers who aspire to senior level positions at home and abroad.

None would question, I am sure, the wisdom of sending Mike Mansfield to Tokyo or Richard Gardner to Rome or a number of the other fully competent outsiders who have been sent abroad. But noncareer appointees should constitute the very small minority. In this day and age, with the potential for disruption abroad as great as it is, our national interest is ill served with diplomats in training representing us at trouble spots around the world.

I ask unanimous consent that this excellent article be printed in the RECORD.

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

PRESIDENTIAL APPOINTMENTS

In August 1976 President Carter told New York Times correspondent C. L. Sulzberger that he would like to help out the Secretary of State "by improving the quality of our major diplomatic appointments. I want these to depend firmly on merit and ability. I don't believe that people should be paid off for contributing to elect a President by getting such posts." This theme is repeated in Mr. Carter's book, Why Not the Best, and frequently mentioned in campaign speeches which sharply criticized past practice in appointing envoys as "political payoffs."

President Carter has now nominated 61 ambassadors and filled the top two dozen positions in the Department of State. So far, the record falls considerably short of the expectations Mr. Carter himself stirred.

The President has increased the career share of overseas ambassadorial assignments, but the pattern of his non-career nominations remains solidly in the tradition of his predecessors. Moreover, the numerical increase in career chiefs of mission has been offset by the sharp reduction in Foreign Service officers in senior departmental positions.

In August 1977, the United States had 118 serving or nominated chiefs of mission. Of these, 30, or 25 percent, were non-career. A year ago the figure was 33 percent. The 1933–76 average was 36 percent. While the career share in Europe and Latin America has increased, the overall geographic distribution of non-career envoys remains similar to past patterns. The largest number are in Europe and only two are in Africa. (See Table 1.)

In terms of appointments, 28, or 46 percent of President Carter's chief of mission nominations have been for individuals from outside the career Foreign Service. However, it is reasonable to expect that the percentage of non-career appointees will decrease since the bulk of nominations so far have been to replace political ambassadors named by Presidents Nixon and Ford. (See Table 2.)

President Carter's choices for non-career ambassadors fall squarely into the traditional mold. About ten are exceptionally well qualified and represent the type of nominee likely to add to the overall effectiveness and creativity of American diplomacy. The Association welcomes the infusion of talent and experience like Senator Mike Mansfield to Tokyo, Dr. Robert Goheen to New Delhi, Leonard Woodcock to Peking, Wilbur LeMelle to Nairobi, Richard Gardner to Rome, and Howard Wriggins to Colombo.

TABLE 1.—SERVING CHIEFS OF MISSION

	Career	1977 non-career	Percent non-career	1976 percent non-career	1933-76 percent non-career
Region:					
Latin America	15	6	29	44	35
Europe	20	9	31	45	48
Africa	26	2	7	13	24
Near East/South Asia	18	4	18	18	19
East Asia	7	4	36	31	25
International organization	2	5	71	86	77
Total	88	[1] 30	25	33	36

[1] Includes 2 noncareer holdovers.

TABLE 2.—CHIEF OF MISSION APPOINTMENTS

	President Carter			1933-76 percent non-career
	Career	Non-career	Percent non-career	
Region:				
Latin America	8	5	38	34
Europe	11	9	45	49
Africa	5	2	29	21
Near East/South Asia	6	4	40	21
East Asia	2	3	60	32
International organization	1	5	83	73
Total	33	28	46	37

Roughly an equal number are people who have performed creditably in various walks of life but have no special qualifications that merit their selection over experienced professionals as chiefs of mission. Unfortunately, there is a third group of five so far who even by stretching the criteria have neither requisite foreign affairs experience nor other background to merit their selection. They appear to be old-style patronage appointments. At least two may owe their nominations to campaign contributions of $50,000 or more.

The Association strongly opposes this type of traditional political appointment. While our public testimony at confirmation hearings has not succeeded in blocking Senate confirmation, the Association, as a matter of principle, will vigorously continue to urge non-confirmation whenever a nominee appears to fall blow the minimum requirements in an ambassadorial appointment.

A potentially constructive innovation has been the establishment of a Presidential Advisory Board on Ambassadorial Appointments. But the Board, which is ostensibly designed to screen nominations in cases where non-career candidates are under consideration, has proven a disappointment. The concerns expressed in the Association's February 4, 1977, statement regarding the lack of foreign affairs experience of the majority of the Board's 20 members has been borne out by the number of unqualified individuals who have received the Board's "qualified" stamp. The Board's performance has inevitably fueled suspicions that its purpose was to serve as a political laundering operation rather than a meaningful screening process. This suspicion has been strengthened by the Administration's unwillingness to accept the Associations' suggestion that distinguished retired career and non-career ambassadors be added to assure that at least a majority of the membership have first-hand knowledge of the functioning of an embassy. At present, only one Board member has ever served as an ambassador overseas and only one was a career officer. Under the circumstances, the Association plans actively to consider the establishment of an independent and nonpartisan screening panel patterned on the American Bar Association's Committee on the Federal Judiciary.

Another troubling aspect of the ambassadorial selection process relates to the procedures by which nominees are examined by the Senate Foreign Relations Committee. Common Cause has recently proposed several useful procedural reforms:

Seven days advance notice of public hearings;

Delay of two weeks before Committee voting after a hearing to permit a more careful review of the hearing record;

A written report to the Senate at least three days before it votes on confirmation.

These sensible proposals have the support of the Association. In addition, the Executive Branch should provide the Senate a written statement on the qualifications of the nominee for the proposed assignment.

Within the Department, there has been a sharp reduction in the number of Foreign Service officers serving in top positions; those of assistant secretary level or equivalent. A year ago there were 16 career officers in the top 25 positions. Today there are six. The Association does not question the right of the President and the Secretary to select people in whom they have confidence, but does regret that they have chosen to select so few of the many well qualified senior officers.

In sum, while Mr. Carter is using more career officers as ambassadors than his predecessors, the overall record is nonetheless disappointing. In the post-Watergate era and especially given Mr. Carter's campaign promises, the Foreign Service had hoped for more fundamental improvement than has

occurred. Under the circumstances, the Association plans to continue an aggressive campaign for reform. The Association's goal remains a rational system of appointing envoys under which the large majority would be trained and experienced career professionals but also including a few exceptionally well qualified non-career appointees who have foreign affairs experience, substantial area knowledge or distinguished public service records. The Association is already in touch with Common Cause and hopes to enlist the support of other public interest organizations and academic groups who share the Association's view that it is time we stop selecting chiefs of our diplomatic missions the way we used to pick postmasters.

RETIREMENT AT 60?

The August FSJ reported that on July 6 the outgoing Governing Board of AFSA had written to the Department urging an appeal of the United States District Court's June 28 decision striking down Foreign Service mandatory retirement at age 60. The August FSJ also asked Members whether or not they favored the court decision. Out of about 50 responses received by early September, 15 supported the Court's decision but 35 favor mandatory retirement at age 60.

On August 8 the Deputy Secretary of State wrote to the Solicitor General asking that he appeal the District Court decision to the Supreme Court. The Deputy Secretary argued that the court was mistaken in declaring, on the basis of the written briefs by both sides, but without a full trial, that Section 632 of the Foreign Service Act lacked any rational basis whatsoever, and was unconstitutional. The Department hopes that the Supreme Court will return the case to the District Court for a full trial on the merits.

On August 23 the newly elected Governing Board adopted a resolution which "welcomes and supports" the Department's decision to ask the Solicitor General to appeal the decision; and we conveyed this position to management and to the Solicitor General.

We regretted having to take any action on this issue without full consultation with the Membership. But we believed we had to go on record prior to the deadline within which the Solicitor General had to decide whether to appeal. We thought that the decision, if unchallenged, would have a negative impact on the careers of a majority of our constituents. We were concerned that the District Court's opinion, which rejects the notion that there is anything special about a Foreign Service career, could adversely affect other unique aspects of the Foreign Service Act, such as voluntary retirement at age 50 with annuities higher than the Civil Service. We also believed that only if the Solicitor General appeals to the Supreme Court is there a chance that this complex issue will be examined fully on its merits.

We look forward to receiving a fuller indication of the memberships' views.

SOVIET CROP ANNOUNCEMENT

Mr. DOLE. Mr. President, President Leonid Brezhnev announced November 2 a Soviet grain harvest of 194 million tons. This figure is down 29.8 million tons from the record 1976 Soviet crop of 223.8 million tons, and is off 19.3 million tons from the 1977 Soviet target of 213.3 million tons.

The harvest in the Soviet Union is almost complete, with over 95 percent already harvested. Brezhnev blamed early season droughts and rain at harvest for the reductions from target.

Meat production was announced for 1977 as being 15 million tons, up from 13.4 million in 1976. The Soviets are expected to continue their policy of maintaining their cattle numbers even if imported grains are necessary during production shortfalls.

This announcement by Brezhnev of a reduced production is a positive factor in the grain markets. However, the 194 million ton figure is still far above the poor 1975 harvest of only 140 million tons, which prompted substantial imports.

Reported Soviet purchases from the United States for the new marketing year, October 1977–September 1978, are 1 million tons of wheat and 1.3 million tons of corn against an agreement to purchase at least 6 million tons. The USDA has agreed that the U.S.S.R. may purchase for this period up to 15 million tons of grain without further consultations. The USDA has estimated that the Soviet's total grain import needs will be 20–25 million tons from all sources.

First. I hope the Administration will keep in close touch with the Soviets and will do everything possible to fill their requirements with U.S. grain while the grain is still in farmers hands so that they will benefit from any price improvement. It would seem that the 15 million ton limit without consultations should be raised as a gesture inviting substantial Soviet purchases, since Secretary Bergland has stated that we could supply "them with 50 million tons if they wanted them."

Second. Under present arrangements there are no incumberances in any international grain agreements to the flow of U.S. grain. I plan to attend the current International Wheat Council session in London to help assure that no impediments will be incorporated in any future grains agreement.

Third. Some countries such as Poland have indicated a desire for CCC credits for a period of more than 3 years. Since this program has an excellent repayment record with interest at rates above the cost of money from the U.S. Treasury, I want to work with the administration to provide legislation for "intermediate" credits to more fully meet these export opportunities.

Fourth. I urge the administration to support legislation that I have introduced and that Senator HUMPHREY has introduced to provide CCC credits to nonmarket economy countries such as the Peoples Republic of China and the Soviet Union. However, I will oppose use of these credits to North Korea, Vietnam, and Cuba, Uganda, or Cambodia.

PAROLE AUTHORITY FOR SOVIET JEWS AND OTHER MIGRANTS

Mr. KENNEDY. Mr. President, over 4,000 Soviet migrants are currently backlogged in Rome waiting to join family members and friends in the United States, and the number is growing every day. It serves no useful purpose to keep them in transit—often for many weeks and sometimes for many months, at considerable expense.

To help resolve this and other refugee and migration problems, I have written to the Attorney General urging that the administration exercise the parole authority in the immigration law. To parole these special migrants would help to avoid some needless personal hardship. And it would also be another way to carry out our national commitment to freedom of movement and human rights.

Parole should also be granted to a reasonable number of political detainees and refugees in Latin America. The festering refugee and related humanitarian problems in Argentina, Chile, and other countries of Latin America must command our continuing interest and concern. As I have written to the Attorney General, we must do what we can to support the United Nations High Commissioner for Refugees and other international bodies in their efforts to provide care and protection to the victims of repression. And we must join with other countries in offering resettlement opportunities to the homeless in need.

Mr. President, I ask unanimous consent that the text of my letter to the Attorney General be printed in the RECORD.

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

OCTOBER 28, 1977.

Hon. GRIFFIN B. BELL,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: In light of the numerical and substantive constraints in present immigration law regarding the issuance of immigrant visas and conditional entries to certain special migrants and refugees, I have long supported the exercise of the Attorney General's parole authority (under Section 212(d)(5) of the Immigration and Nationality Act, as amended) to help meet our international responsibilities toward the homeless and certain other migrants seeking to build new lives in our society. For more than two decades, the exercise of the parole authority, for humanitarian and "emergent" reasons consistent with our national traditions and interests, has provided the needed flexibility for our country to join with others in responding to humanitarian emergencies and to the resettlement appeals of the United Nations High Commissioner for Refugees (UNHCR) and other international organizations. I strongly feel its continued use is a logical extension of the immigration law's basic provisions governing the admission of immigrants and refugees.

With this in mind, I would like to address a number of migration problems currently under discussion within the Administration and the appropriate committees of Congress, as well as among the various voluntary agencies involved in the resettlement of migrants and refugees. At least two of these problems involve our national policy to encourage the freer movement of people for migration purposes and our national commitment to carry out in every reasonable way the spirit and letter of the relevant agreements resulting from the 1975 Helsinki Conference on Security and Cooperation in Europe.

Of immediate urgency is the need to implement the parole authority in behalf of Soviet and other nationals, who are being processed for movement to the United States and who normally transit in Rome. The number of these special migrants and refugees, a growing number of whom join relatives and friends in the United States, is

once again exceeding the number of immigrant visas and conditional entries annually available to such people under Section 203 (a) of the Immigration and Nationality Act, as amended. And expert observers suggest this situation will continue for sometime into the future. Given such projections and the demonstrated need in recent years to maintain some flexibility in meeting our humanitarian responsibilities toward the families who transit in Rome, I would like to recommend that the parole authority be exercised on a standby basis over the coming months and without a specified ceiling ing on the number of entries into the United States. Such a program, carried out in consultation with Congress, is consistent with past practices involving other groups of special migrants and refugees.

In this connection, very serious consideration should also be given to exercising the parole authority in behalf of certain family reunion and special humanitarian cases among individuals and families in Romania and, perhaps, other countries, who are being granted permission to emigrate, but do not readily qualify for regular immigrant visas under the immediate relative or relative preference categories of the Immigration and Nationality Act, as amended. The number of such cases is relatively small, and we should do what we can to facilitate their direct movement to sponsoring relatives or voluntary agencies in the United States. To exercise the parole authority in behalf of such cases would not only be a meaningful implementation of our national commitment to freedom of movement and human rights, but, more importantly, it would also help to avoid some undue personal hardship among individuals and families involved.

The festering refugee and related humanitarian problems in Argentina, Chile, and other countries of Latin America are another area of concern to many Americans. Among these problems are the continuing resettlement needs among thousands of political detainees and refugees. The existing parole program to help a reasonable number of these people in Argentina and Chile has been serving its purpose well, and a pending proposal to expand this program to cover humanitarian problems in all of Latin America should be expeditiously approved and implemented. The Administration deserves every support in its efforts to promote human rights in the Western Hemisphere and to join with other countries in helping the UNHCR and other international organizations provide adequate care and protection and resettlement opportunities to those in need.

Finally, we must also be mindful of the continuing problem of displaced persons from the Indochina Peninsula in Thailand and other countries of Asia, especially those with close family members in the United States and the "boat cases" from Vietnam. The current parole program in behalf of these displaced persons, and the similar programs of other governments, are helping many families. But there is little doubt that additional efforts will be needed by the international community in the time ahead.

Over many years, the American people have responded generously and compassionately to the needs of special migrants and refugees, and I share the view of many that a national policy of welcome serves our country and its traditions well. Hopefully, we will continue this policy, especially for migrants and refugees joining family members in this country. And pending the enactment of some basic immigration reforms to help meet our humanitarian responsibilities in a more orderly way, I am also hopeful that the parole authority will continue to be exercised, judiciously and without discrimination, in behalf of a reasonable number of people who are seeking to build a new life in a new land.

Many thanks for your consideration, and I look forward to hearing from you soon.

Sincerely,

EDWARD M. KENNEDY.

THE KAISER-PERMANENTE HEALTH PLAN

Mr. KENNEDY. Mr. President, in New York City last week my friend, Joe Califano, Secretary of Health, Education, and Welfare presided over an important ceremony. The occasion marked Federal qualification of the Kaiser-Permanente health plan as a health maintenance organization. Kaiser-Permanente has long served as a model for high quality prepaid medical care in this country. Serving more than 3¼ million people in California, Colorado, Ohio, Oregon, Washington State, and Hawaii, Kaiser-Permanente is the largest non-Government provider of medical services in the world.

Secretary Califano and Under Secretary Hale Champion have taken a long hard look at the problems of health care costs in this country and the challenge to make quality health care affordable for all Americans. They now believe that health maintenance organizations are an important system for delivering high quality, low cost, fully accessible, and continuous health care protection to millions of Americans.

I am hopeful that the new administration is committed to insuring the necessary means for the HMO program to develop its full potential. Certainly the streamlining of the complicated Federal qualification process represents an important first step, but it is only a first step. I want to ask my colleagues to continue to support the HMO program. Mr. President, I ask unanimous consent that the full text of Secretary Califano's remarks be printed in the RECORD.

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

STATEMENT BY SECRETARY JOSEPH A. CALIFANO, JR.

Good morning, ladies and gentlemen.

Today is an important milestone in the Department's effort to give all Americans the opportunity to obtain health care from prepaid comprehensive medical plans, or Health Maintenance Organizations (HMOs), as they are more popularly known.

As most of you know—but which, unfortunately, many Americans do not understand—a typical HMO provides a broad range of high quality medical benefits, including physicians' services and hospitalization, for a prearranged, prepaid fee. Unlike the usual arrangements between a patient and physician (or the insurance company), under which the doctor is reimbursed for each service rendered—the HMO receives a flat fee for all medical and hospital services. The HMOs fee does not increase—no matter how much care or how many tests the patient needs, including hospitalization.

These are some of the advantages of HMOs to us:

First, because the HMO receives a flat fee for all medical and hospital services, it has an incentive not to engage in excess hospitalization, not to run duplicative or unnecessary tests, not to refer a patient to an unnecessary specialist. The HMO pays for wasteful and unnecessary procedures, not the patient. The cost savings are impressive—and so is the quality of care, often exceeding the quality of fee-for-service care by an individual doctor.

HMO patients are hospitalized 30 to 60 percent fewer days than patients covered by traditional insurance plans.

In one study of hospital use, Federal employees enrolled in HMOs used 383 hospital days a year per 1,000 members, while Federal employee Blue Cross subscribers used 724 days per 1,000 members.

That same study showed that enrolled members of the Genesee Valley Group Health Association, a qualified HMO in Rochester, New York, used less than 60 percent of the hospital days per thousand members used by Blue Cross subscribers in that community.

And those enrolled in Kaiser's northern California plan use hospital days at a rate less than half that applicable to the general population of the state.

Last year, this nation spent more than 45 billion dollars for hospital care. Just reflect on the fact that the evidence demonstrates that HMOs reduce hospitalization by up to 40 and 50 percent: A ten percent reduction in hospitalization last year would have resulted in an immediate $2 billion saving for American taxpayers and American consumers last year and, over time, a saving of much more.

But it is not only because of these cost savings—dramatic as they are—that we are committed to HMO development.

The second, equally important, attraction of HMO care is its emphasis on quality and prevention. The quality of HMO care is excellent, since doctors practicing together share knowledge, seek each other's opinions, and provide broad medical services that far exceed the sum of the parts.

HMOs exercise preventive care through periodic examinations, health and nutrition education, and well-baby care. They tend to identify illness early, to treat it as efficiently as possible and avoid the need later on for more costly treatment, including hospitalization.

HMOs make it easy for people to get the care they need, when and where they need it. People enrolled in HMOs know their entry point into the health care system—they do not have to search out a specialist or worry about where to go after hours or on weekends. The HMO makes provision for full-time coverage and it arranges necessary referrals.

Third, HMOs promote continuity of care and make health planning more efficient. At the beginning of the year, the HMO has a good idea as to the number of people it will be serving and can arrange for hospital beds and specialists accordingly. The consumer knows the total cost of services in advance.

Finally, HMOs offer competition to a system badly in need of it. They are demonstrating that they can compete—on a price and quality basis—with fee-for-service doctors and complex insurance policies that cover some fee-for-service medical and hospital care.

As Kaiser and other HMOs scattered across the country, including those in New York, New Jersey and Connecticut, have proven beyond a reasonable doubt, HMOs are not experimental demonstration projects. They are established and respected providers of good quality, comprehensive and cost-effective health care, and the American people deserve more of them.

Given such great potential, why haven't HMOs developed more rapidly? The answer to that question, unfortunately, is found, in large part, right in the Department of Health, Education, and Welfare.

When we arrived at HEW, the Federal government seemed to be doing all it could to make it difficult, if not impossible, to qualify as an HMO. Federal qualification is

essential for a developing HMO to gain access to the market of health benefit care purchased by employers. Qualification is necessary to obtain certain federal loans and loan guarantees. It facilitates Medicare and Medicaid contracting.

So cumbersome had the requirement become, so unwieldly the paperwork, and so fragmented and understaffed the organization in HEW to run the HMO program, that the line for becoming a federally qualified HMO was much too long. We were receiving four completed applications a month, but only rendering a decision on two or less. The backlog at one point reached 52 pending applications. The HMO qualification office was too short-handed to get the job done.

And the job was enormous. Kaiser's applications, for example, took six months to prepare, weighed over 600 pounds and stood almost six feet tall.

Grants and loans for HMO development were handled out of one office; the qualification process out of an entirely different one. Needed HMO regulations took years to write and publish.

We have tried to correct this situation and bring a new attitude to bear toward HMOs—one that is consistent with our hopes for the future of this movement.

We are making some progress:

Since June 1977, we have cut the qualification line by almost 40 percent, by assigning additional staff to this effort and by plain hard work. We are streamlining the entire qualification process, and trying to avoid the voluminous paperwork of the past.

We have decided to consolidate the operations of the grants and loan office, as well as the qualification and compliance office, under the administration of a single Director of Health Maintenance Organizations who will be announced, I hope, within the near future.

By the end of next week we will publish, in the Federal Register, new regulations governing grants and loans, Medicare and Medicaid contracting—finally implementing the HMO Amendments of 1976.

By the end of this year, we intend to publish, for the first time, guidelines to help state and local planning agencies recognize the special needs of HMOs when these health plans request certificates of need. These guidelines will be designed to encourage HMO development and expansion, which has often been thwarted by local Health Services Agencies applying rules of thumb designed for expansion in the fee-for-service sector. These guidelines are an essential step to allow the HMO movement to develop to its full potential.

Later today, I will announce some other steps, aimed at enlisting the support of business and labor in developing HMOs.

What better model for such cooperation could we point to than the Kaiser-Permanente Health Plans? Born out of the foresight and common sense of Dr. Sidney Garfield, Edgar Kaiser and his father, Henry J. Kaiser, it stands today as a living example which can and should be duplicated across the nation. From its beginnings on the California desert serving aqueduct workers in 1933, from Edgar Kaiser's fateful request of Dr. Garfield to provide medical and hospitalization services on a prepaid basis to the Kaiser construction workers erecting the Grand Coulee Dam, has arisen the classic model for HMO development.

Kaiser-Permanente today provides high quality, prepaid medical services in California, Colorado, Ohio, Oregon, Washington and Hawaii to more than 3¼ million people. They have chosen its services because of their quality, accessibility and cost. In Northern California, for example, nearly 23 percent of the eligible civilian population has chosen to sign up with Kaiser. The six plans own and operate twenty-six general hospitals with 5,711 beds; sixty-eight outpatient centers, representing more than $616 million in capital investment. They use the services of more than 3,100 full-time physicians through the Permanente Medical Groups and 27,000 other employees.

This is big business even within the third largest industry in the country. Kaiser-Permanente is the largest non-governmental provider of medical services in the world.

So it is with great pleasure that I today welcome the Kaiser groups as Federally qualified HMOs. In many ways, it marks the coming of age of the Qualification Program. In September, 1975, almost two years after enactment of the HMO Act, there were only four Federally qualified HMOs with a total enrolled membership of 8,600. Yesterday, there were 43 Federally qualified HMOs serving approximately 615,000 people. After today's signing ceremony we will have 47 Federally qualified HMOs serving more than 3.8 million people.

But before we proceed, I want to acknowledge the presence here this morning of two of the principal founders of the Kaiser-Permanente Plans—Dr. Sidney Garfield and Mr. Edgar Kaiser.

I will speak of Dr. Garfield's accomplishments later today. So I am sure he will forgive me if I take the liberty of introducing instead Mr. Kaiser, Chairman of the Board of the Kaiser Foundation Health Plan and the Kaiser Foundation Hospitals, and one of America's foremost industrialists.

We will remember him as a productive and innovative manager and entrepreneur. We will remember his stewardship of the Kaiser shipyards in Portland during World War II and the production under terribly trying circumstances of the immortal "Liberty" ships. We will remember him as the mass manufacturer of the Kaiser jeep. We will remember his civic and community involvement; his chairmanship, for example, of President Johnson's National Committee on Urban Housing. But it is my belief that is the crowning achievement of Edgar Kaiser's career—the true innovation and accomplishment.

S. 1437—THE FEDERAL CRIMINAL CODE REFORM ACT OF 1977

Mr. KENNEDY. Mr. President, this past Wednesday the Senate Judiciary Committee voted overwhelmingly to report S. 1437, the Federal Criminal Code Reform Act of 1977. This important legislation would, for the first time in our Nation's history, codify, modernize, and streamline the entire Federal criminal law. It is a massive undertaking, of critical importance to the American people. Senator McCLELLAN and I are, of course, extremely pleased and gratified by the bipartisan support demonstrated in the Senate Judiciary Committee. I am hopeful that the full Senate will consider S. 1437 promptly when it returns early next year.

Obviously, in considering a bill as lengthy and complex as S. 1437 the entire committee owes a tremendous debt to the Senate staff and Justice Department officials who worked so long and hard to develop and refine the legislation. Without their dedication and commitment S. 1437 would never have become a reality. At this time Senator McCLELLAN and I wish to pay special tribute to the many staff members who made such a lasting contribution to the final product.

Ron Gainer, Roger Pauley, Fred Hess, and Karen Skrivseth of the Justice Department were a tremendous help in drafting and explaining the many complex provisions of S. 1437. Mr. Gainer, in particular, has been continuously involved in the ongoing 11-year effort to reform our Federal criminal laws.

Paul Summit, Russ Coombs, and Mable Downey of Senator McCLELLAN's Subcommittee on Criminal Laws and Procedures have worked with me on a daily basis since the bill was introduced last May and made a valuable contribution to the final product.

I also wish to thank the individual staff members of the various Senators on the committee—Francis Rosenberger, Kevin Faley, Mary Jolly, Glenn Feldman, and Irene Margolis, Quentin Crommelin, Katrina Lantos, Larry Dinger, and Josephine Gittler, Herman Schwartz, Ricki Tigert, and Keith O'Donnell, Tim McPike, Eric Hultman, Michael Klipper, Riley Temple, and Ralph Oman, Dick Moore, Michael Hunter, Tom Parry, Pat Hoff, and Mary Jane Checchi. The list is long but their contributions can be found on practically every page of S. 1437. Without their cooperation and determination to draft the best bill possible S. 1437 could not have been reported. Each one of them has my sincere thanks and the thanks of Senator McCLELLAN.

S. 1437, as amended, and the accompanying committee report will be available within the next few weeks. I have instructed the staff to begin holding weekly briefing sessions throughout December and January, open to all Senate or House staff members who wish to attend. These briefing sessions will be held for the purpose of explaining S. 1437 to other congressional staff and discussing any proposed amendments that might be offered on the Senate floor.

SENATE SERVICE

Mr. ROBERT C. BYRD. Mr. President, on November 5, 1977, a milestone will be reached in the history of the U.S. Senate. For on that day we will have serving in the Senate six Senators who have been Members of the U.S. Senate for 30 years or more. Never in the history of the United States has this occurred. The Senators who will be serving for 30 years or more, at that time, will be the Senator from Mississippi (Mr. EASTLAND), with 35 years 1 month, the Senator from Arkansas (Mr. McCLELLAN) with 34 years 10 months, the Senator from Washington (Mr. MAGNUSON) with 32 years 11 months, the Senator from North Dakota (Mr. YOUNG) with 32 years 8 months, the Senator from Alabama (Mr. SPARKMAN) with 31 years, and the Senator from Mississippi (Mr. STENNIS) with 30 years. This is indeed a remarkable situation and a tribute to the outstanding service which these senior Members of the Senate have demonstrated on behalf of the Nation and their constituents.

Of particular interest is another record having to do with consecutive service on the part of two of these Members. In the history of the Senate, only two Senators have ever served as chairman of a committee consecutively for more than

20 years. These are the Senator from Washington, Mr. MAGNUSON, who will have served as chairman of the Committee on Commerce, Science, and Transportation and its predecessors for more than 22 years consecutively, and the Senator from Mississippi, Mr. EASTLAND, who has served as chairman of the Committee on the Judiciary for 20 years consecutively. Furthermore, the No. 3 record holder for consecutive service as chairman of a committee is held by the distinguished chairman of the Appropriations Committee, the Senator from Arkansas, Mr. MCCLELLAN, who served as chairman of the Committee on Government Operations for 18 years until 1973. One Member of the Senate, William B. Allison of Iowa who served from 1873 to 1908, did serve as chairman of a committee for a longer period of time, 25 years. However, this service was broken into two periods, a 12-year period between 1881 and 1893, and a 13-year period between 1895 and 1908.

We have a number of other distinguished Members whose service I would like to point out at this time. Of all the people currently serving in the Congress, the first to be here was my esteemed colleague from West Virginia (Mr. RANDOLPH). Although his service has not been continuous, my colleague is the only Member of either the House or the Senate, currently serving, who was an elected Member of the Congress at the time of the first inaugural of President Franklin D. Roosevelt. Our distinguished colleague from Arkansas, Mr. MCCLELLAN, began his service with two terms in the other body beginning in 1935. After a hiatus he returned to Congress, this time as a Member of the Senate, and has served here ever since 1943.

Other than the dean of the other body, the gentleman—as they are referred to in the House—from Texas, Mr. MAHON, the two members of either body who have the longest consecutive service are the distinguished Senator from Washington, Mr. MAGNUSON, and the distinguished Senator from Alabama, Mr. SPARKMAN. Both began service together in the other body in 1937. While the Senator from Washington came over to this body sooner than did the gentleman from Arkansas, he was not far behind.

Mr. President, when young people ask why an individual goes into the legislative service, or how one man can continue to be reelected, I would suggest that they look to the six Members of our body who have served here now for 30 years or more, particularly to the two who have served in this body and the other body for 40 years or more. Their outstanding contributions to this Nation will last an eternity. Their selflessness, their dedication, their hard work are the cornerstones of public service in a democracy.

Mr. President, having been in this body almost 20 years, and in the other body for 6 years, it is my observation that these records will not be often emulated in the future. Our problems are becoming heavier; our burdens are more onerous. I would venture to say that not many men in the history of this Republic, though it may stand a thousand years, will ever again be able to equal the length of service of the Senators whom I have named.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD two tables, one entitled "Longest Serving Chairmen in The United States Senate as of November 1977", and the other entitled, "Longest Serving Senators as of November 1977."

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

LONGEST SERVING CHAIRMEN IN THE U.S. SENATE AS OF NOVEMBER 1977

	Senator	*Committee*	*Dates Served*	*Years*	*Broken or Consecutive*
1.	Allison, William B.	Appropriation	1881–1893; 1895–1908	25	Broken.
2.	Magnuson, Warren G.	Commerce	1955–Present	22+	Consecutive.
3.	Frye, William P.	Commerce	1888–1893; 1895–1911	21	Broken.
4.	Eastland, James O.	Judiciary	1957–Present	20+	Consecutive.
5.	McClellan, John L.	Government Operations	1955–1973	18	Consecutive.
6.	Ellender, Allen J.	Agriculture and Forestry	1955–1971	16	Consecutive.
7.	Morrill, Justin S.	Finance	1881–1893; 1895–1898	15	Broken.
8.	Hill, Lister	Labor and Public Welfare	1955–1969	14	Consecutive.
9.	Cockrell, Francis M.	Engrossed Bills	1889–1893; 1895–1905	14	Broken.
10.	Jones, John P.	Epidemic Diseases	1881–1895	14	Consecutive.

LONGEST SERVING SENATORS AS OF NOVEMBER 1977

			Yrs.	*Mos.*
1. Hayden, Carl T.	Ariz.	3/4/1927—1/3/1969	41	10
2. Russell, Richard B.	Ga.	1/12/1933—1/21/1971	38	6
3. Warren, Francis E.	Wyo.	11/18/1890—3/4/1893		
		3/4/1895—11/24/1929	37	6
4. McKellar, Kenneth	Tenn.	3/4/1917—1/3/1953	35	10
5. Smith, Ellison D.	S.C.	3/4/1909—11/17/1944	35	8
6. Ellender, Allen J.	La.	1/3/1937—7/27/1972	35	7
7. Allison, William B.	Iowa	3/4/1873—8/4/1908	35	5
8. Eastland, James O.	Miss.	6/30/1941—9/28/1941		
		1/3/1943—Present	35	1
9. McClellan, John L.	Ark.	1/3/1943—Present	34	10
10. George, Walter	Ga.	11/22/1922—1/2/1957	34	2
11. Aiken, George	Vt.	1/10/1941—1/2/1975	34	
12. Magnuson, Warren G.	Wash.	12/14/1944—Present	32	11
13. Borah, William E.	Idaho	3/4/1907—1/19/1940	32	10
14. Byrd, Harry F.	Va.	3/4/1933—11/10/1965	32	8
15. Young, Milton	N.D.	3/12/1945—Present	32	8
16. Sherman, John	Ohio	3/21/1861—3/8/1877		
		3/4/1881—3/5/1897	31	11
17. Morrill, Justin S.	Vt.	3/4/1867—12/28/1898	31	10
18. Lodge, Henry C.	Mass.	3/4/1893—11/9/1924	31	8
19. Sparkman, John	Ala.	11/6/1946—Present	31	
20. Hill, Lister	Ala.	1/10/1938—1/3/1969	31	
21. Frye, William P.	Maine	3/18/1881—8/8/1911	30	4
22. Morgan, John T.	Ala.	3/4/1877—6/11/1907	30	3
23. Cockrell, Francis M.	Mo.	3/4/1875—3/3/1905	30	
24. Cullom, Shelby M.	Ill.	3/4/1883—3/3/1913	30	
25. Hale, Eugene	Maine	3/4/1881—3/3/1911	30	
26. Jones, John P.	Nevada	3/4/1873—3/3/1903	30	
27. Simmons, Furnifold	N.C.	3/4/1901—3/3/1931	30	
28. Smoot, Reed	Utah	3/4/1903—3/4/1933	30	
29. Stennis, John C.	Miss.	11/5/1947—Present	30	

AUTHORITY FOR CERTAIN ACTIONS UNTIL NOVEMBER 29, 1977

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the period between this hour and the hour of 12 noon on November 29, 1977, the Secretary of the Senate be authorized to receive messages from the other body and from the President of the United States, and that they be appropriately referred.

Mr. President, I also ask unanimous consent that the Vice President of the United States, the President of the Senate pro tempore, the Acting President of the Senate pro tempore, and the Deputy President of the Senate pro tempore be authorized to sign all duly enrolled bills and resolutions.

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

Mr. ROBERT C. BYRD. Mr. President, the reason I said the 29th is that it is conceivable that the minority leader and I, as we meet in our pro forma sessions from time to time, will, as we approach the week of November 27, be in a position to determine whether or not there is going to be business on the

28th. In the event that, by that time, it should appear to be appropriate to come in on the 29th rather than the 28th, the order just entered will have carried through to the 29th.

Mr. President, has an order been entered for the recess of the Senate over until 10 a.m. on Tuesday?

The PRESIDING OFFICER. The Chair advises the majority leader that it has not.

ORDER FOR NO CONSIDERATION OF CALENDAR MEASURES WITHOUT CLEARANCE WITH LEADERSHIP

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, for the remainder of the 1st session of the 95th Congress, no motion to proceed to the consideration of any calendar measure be in order unless it has been previously cleared by both the distinguished minority leader and the majority leader, or their designees, the distinguished majority whip and the distinguished minority whip, and that no unanimous-consent request to change this order be entertained by the Chair.

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

Mr. ROBERT C. BYRD. Mr. President, I have entered this order for the purpose of protecting all Members against calendar measures being called up without notice by their being first cleared by the aforementioned members of the leadership. The joint leadership has already announced that, barring an emergent matter, the Senate does not expect to take up any more calendar measures during the remainder of this session and that only conference reports and nominations will be considered. However, there may be reasons, which we do not foresee at the present time, for the distinguished minority leader and me or, in our absence, our two designees who have been mentioned, to call a measure up from the calendar. So that protection is accorded to the joint leadership, and our colleagues are protected from any surprise motion to call up any measure at a time when Members would not be here and would not be prepared to debate such measure.

Mr. BAKER. Mr. President, I express my appreciation to the majority leader for initiating this request, in which I am happy to concur. I think that, with the Senate going into a series of recesses punctuated by pro forma sessions and in view of the announcement that no business will be transacted, in effect, except for incoming conference reports, the consideration of noncontroversial nominations, with certain exceptions, and other matters as described by the majority leader—under those circumstances, it would be difficult to keep adequate control of the calendar for the purpose of protecting Members on both sides of the aisle and honoring the notations on our calendars as they now appear on the remaining items. I congratulate the majority leader for making that initiative and I thank him for his efforts in that respect.

Mr. ROBERT C. BYRD. I thank the distinguished minority leader.

ORDER FOR CERTAIN ACTION TO BE TAKEN WITH RESPECT TO H.R. 7345

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when a message from the House transmitting a concurrent resolution to correct the enrollment of H.R. 7345 is received, it be deemed to have been considered and agreed to.

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

ORDER FOR RECESS UNTIL TUESDAY, NOVEMBER 8, 1977, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Tuesday, November 8 and that, on that date, the majority and the minority leaders have 10 minutes each to use for whatever purposes may appear to be desirable at that time, but particularly for the purpose of making any announcements for the benefit of the membership at that time.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY, NOVEMBER 8, 1977, AND AUTHORIZATION FOR SENATORS TO ENTER STATEMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, during that session, the RECORD may provide space for the transaction of routine morning business.

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

Mr. ROBERT C. BYRD. That session will not be for the purpose of Senators delivering statements, but they may enter statements into the RECORD. They may introduce bills and joint resolutions, petitions and memorials, and committees may report. There will be no votes.

ORDER FOR RECESS ON TUESDAY, NOVEMBER 8, 1977, UNTIL FRIDAY, NOVEMBER 11, 1977, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Tuesday, November 8, it stand in recess until the hour of 10 a.m. on Friday, November 11, for the purpose of a pro forma session only—no morning business to be transacted. The Senate will be called in and recessed immediately in accordance with the Constitution, which requires that neither body may adjourn or recess for a period of more than 3 days without the consent of the other body.

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

ORDER FOR RECESS ON FRIDAY, NOVEMBER 11, 1977, UNTIL TUESDAY, NOVEMBER 15, 1977, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the end of the pro forma session on Friday, November 11, the Senate stand in recess until the hour of 10 o'clock a.m. on Tuesday, November 15, and that the same order which has been entered into for next Tuesday, November 8, be repeated for Tuesday, November 15.

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

Mr. ROBERT C. BYRD. This will mean that the minority leader and the majority leader will have 10 minutes each on Tuesday, November 15, if they wish to use it to make statements of interest to their colleagues. Mr. President, I think that, by that time, we can take care of the remaining pro forma sessions as the needs are then foreseen.

ORDER TO PRINT CALENDARS OF BUSINESS EACH FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Calendar of Business be printed each Friday until further notice.

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

ORDER TO PRINT EXECUTIVE CALENDAR EACH FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Executive Calendar be printed each Friday until further notice.

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

ORDER TO PRINT CALENDAR FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a calendar be printed tomorrow, Saturday, November 5.

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

Mr. ROBERT C. BYRD. The calendar will be printed tomorrow with next Tuesday's date.

Mr. BAKER. Mr. President, just for clarification I might say that we have transacted a great deal of business on this calendar and the purpose in this request, as I understand it, was to make sure we have a fresh calendar with which to proceed when we reconvene in pro forma session next Tuesday.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

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

EXPRESSIONS OF GRATITUDE

Mr. ROBERT C. BYRD. Mr. President, I state my thanks again to the distinguished minority leader for the excellent cooperation that he has consistently shown to the majority leader and the Members on this side of the aisle, and I also thank the distinguished minority whip for the same kind of excellent cooperation. It has been a pleasure to work with both of these fine Senators as we have attempted to steer our way through some pretty rough and stormy weather from time to time.

I think the Senate has produced a fine record thus far during this session.

I also want to express my gratitude to the distinguished majority whip who at all times has been a pillar of strength and a Senator who has been of extreme help to me in all matters.

I thank the excellent members of the Democratic Policy Committee staff, the officers of the Senate, and the people at the desk who have worked long hours as the Senate has been in long sessions.

I thank our pages who have been faithful throughout. I extend my appreciation to all of our colleagues and also to Senate and House conferees, while those poor devils—and I use that term affectionately—will have to be working in conference, while other Members who are not in conference will be able to get back to their home States. I not only wish them well in their conferences but state at this point that the Senate is in their debt and so are the people.

While we have had some pretty contentious sessions here, the Senators in conference will continue to have some contentious sessions there. They will be working long hours and I again personally express my appreciation to them and my hopes that their arduous tasks there will soon be more successful than to date they have appeared to be.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, once again I find myself in the position of rising to express my appreciation to the distinguished majority leader for his further consideration and his careful attention to detail as to protection of the rights of Senators, not only the majority Senators, but, indeed, all Senators, including those on this side of the aisle.

I think the majority leader has done an extraordinarily good job organizing and moving the business of the Senate. I commend him for it.

It has been my pleasure to work with him. I count it a great honor to share with him some of the responsibilities we have had together. It has been a great pleasure to oppose him on occasion in matters we found ourselves in disagreement on. But in both cases, I found him a man not only of skill, but of fairness.

It is my pleasure to serve with him.

Mr. President, I also express my appreciation to the staff on this side, the members and the officers and employees of the Senate, and I wish them a happy time during this brief break.

Mr. President, I also wish to congratulate the distinguished assistant minority leader for his participation in this session, for his invaluable assistance, and extend to his counterpart on the majority side of the aisle and to the distinguished majority leader his congratulations as well and his thanks and gratitude for the many items of cooperation in this session to date.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

As always, the great and noble Senator from Alabama (Mr. ALLEN), who never seems to overlook anything or anybody, has reminded me that in my expressions of gratitude to various personages this evening, I have overlooked our official reporters, and I certainly did that inadvertently. I would not want the RECORD to be closed for this date without appropriate expressions of appreciation and solicitude and felicitations to them. Without their faithful dedication, our work would be more difficult.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, just to be sure we have not forgotten anything, 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. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS TO 10 A.M. TUESDAY, NOVEMBER 8, 1977

Mr. ROBERT C. BYRD. Mr. President, the woods are lovely, dark, and deep, but I have promises to keep, and miles to go before I sleep.

One of the promises I made was that if the Senate completed action on the social security financing bill today, it would not be in session on Saturday. So, in order to keep that promise, Mr. President, and with thanks to the doorkeepers and all the other Members of the Senate, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in recess until the hour of 10 o'clock a.m. on Tuesday next.

The motion was agreed to; and at 11:59 p.m., the Senate recessed until Tuesday, November 8, 1977, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 4, 1977:

THE JUDICIARY

James K. Logan, of Kansas, to be U.S. Circuit judge for the 10th circuit, vice Delmas C. Hill, retired.

Robert S. Vance, of Alabama, to be U.S. circuit judge for the fifth circuit, vice Walter P. Gewin, retired.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of commander:

Robert F. Melsheimer
Thomas E. Blank
David W. Hiller
Roy L. Foote
Timothy G. McKinna
James A. Umberger
Thomas W. Watkins
William J. Minor
Thomas D. Fisher
Robert P. Dickenson
David J. Connolly
Robert L. Kuhnle
David A. Young
James J. Lantry
Kent M. Ballantyne
George H. Brown III
John W. Greason
Robert G. Bates
David A. Meadows
Robert C. Wright
Roger W. Allison, Jr.
Richard W. Minter
Gerald Barton
Karl A. Luck
Gary T. Morgan
Joseph O. Fullmer
Milton C. Richards, Jr
George F. Martin
Frederick H. Clausen
Paul A. Dux
Lawrence A. Minor
William N. Zensen, Jr.
David O. Drake
John N. Naegle
Morris D. Helton
Robert E. Fenton
Michael J. Jacobs
William M. Baxley
William A. Caster
Arthur B. Shepard
Peter C. Busick
Daniel K. Shorey
Jeffrey D. Hartman
Ernst M. Cummings
Denis J. Bluett
Edward E. Demurzio
John D. Adams
Jan F. Smith,
Dana W. Starkweather
Roger W. Hassard
David L. Andrews
James F. McCahill, Jr.
Barham F. Thomson III
Nicholas H. Allen
Richard J. Heym
William A. Monson
James C. Haldeman
Karl W. Mirmak
Gerald D. Mills
Virgil J. O'Grady
Jacob P. Aucoin
John P. Deleonardis
Frederic J. Grady III
Robert A. Yuhas
Gerald T. Willis
Charles W. Peterson
Charles A. Carleton
Martin F. Heatherman
Richard L. Schoel
Roger R. Roznoski
Richard R. Bock
Alfred W. Harrell
William A. Swansburg
Donald P. Billings
David E. Clements
Norman T. Saunders
James C. Card
Richard D. Herr
Michael B. Stenger
Galen R. Siddall
Edward K. Roe, Jr.
Andrew F. Durkee, Jr.
Richard S. Jarombek
William R. Wilkins
George E. Watts
Stephen P. Plusch
Kenneth W. Thompson
Peter K. Valade
David N. Arnold
James R. Sherrard
Robert L. Sundin
Fred H. Halvorsen
Robert T. Dailey
Richard J. Beaver
Harry E. Budd, Jr.
Berne C. Miller
Harold G. Reed
Alan D. Rosebrook
Jerry J. Surbey
Robert E. Hammond II
James M. Loy
Gordon G. Piche
Edward V. McGuire
John A. Gloria
Arnold H. Litteken, Jr
Joseph M. Maka
Paul A. Martin
Thomas A. Welch
Thomas J. McCarthy
Richard L. Anderson
Robert L. Hanna, Jr.
Walter C. Reissig
Kent H. Williams

IN THE NAVY

The following named lieutenant commanders of the U.S. Navy and Naval Reserve for temporary promotion to the grade of commander in the various staff corps, as indicated, pursuant to title 10, United States Code, section 5773, subject to qualification therefor as provided by law:

MEDICAL CORPS

Ascarelli, Emanuel D.
Balsam, Marion J.
Barbier, George H.
Benedict, Joseph C.
Bernhardi, Louis A., II
Broadhead, Daniel D.
Chesson, Ralph R.
Clubb, Robert J.
Connors, Paul J.
Emarine, Charles W.
Fajardo, Jesus E.
Gibbs, Steven C.
Humphries, Thomas J.
Juels, Charles W.
Larsen, Mark A.
May, William E.
Moore, Vernon J., Jr.
Nutt, Richard L.
Rathburn, Lawrence A.
Reyes, Antonio F.
Rodis, Steven L.
Schrantz, William F.
Settle, Charles S.
Shantinath, Kangavkar
Syverud, James C.
Thomas, Frank A.
Wilson, David B., Jr.
Yauch, John A.

SUPPLY CORPS

Adelgren, Paul W.
Andrews, Ernest L., Jr.
Atkinson, Larry R.
Auerbach, Eugene E.
Baldwin, Seth W., II
Bano, Edward J., Jr.
Bartel, Joseph R.
Biggins, James A.
Blondin, Peter W.
Boalick, Howard R.
Bradley, James S.
Burnham, John K.
Butler, Joel L.
Cangalosi, Davis S.
Carroll, John P.
Cole, Chester B.
Cook, Kendall R.
Correll, Charles D.
Crocker, William G.
Dahm, Eugene E.
Danner, Glenn R.
Davis, Frederic C.
Deane, Thomas J., Jr.
Dieterle, Edward R.
Driskell, James D., III
Eadie, Paul W.
Earhart, Terry L.
Endzel, Edward W.
Evans, George A.
Fisher, Gary C.
Flint, Ralph Q.
Foster, Donald G.
Frassato, Robert C.
Freiberg, Leonard S., Jr.
Galligan, David R.
Gallion, Robert Z.
Gee, Charles D.
Geroe, Marvin K.
Grant, Robert D.
Grichel, Dietmar F.

Groves, William D.
Habermann, William F.
Hagerty, William O.
Hanson, Harold C.
Harrington, Phillip H.
Hawthorne, Richard L.
Hering, Joseph F.
Hickman, Donald E.
Hildebrand, Jarold R.
Hogan, Brian T.
Holland, Donald L.
Hooker, James S.
Hundelt, George R.
Hyman, William M.
James, William D.
Kaufman, James D.
Kerr, Harold L., Jr.
Kizer, John L.
Kosch, Charles A.
Krehely, Donald E.
Lafianza, Bernard J.
Lebel, Robert F., Jr.
Leeper, James E., Jr.
Lenga, James R.
Leon, Albert
Lewis, James J.
Lines, Donald P.
Lutz, Gerald G.
Macaulay, Charles P.
Macmurray, Michael M.
Mastrandrea, Gary A.
McDermott, John E.
McGraa, John R., III
Meneely, Frank T.
Mitchell, John W.
Monroe, James L. D.
Monson, Jon P.
Moore, Thomas J.
Moran, Thomas A.
Morgan, George P., Jr.
Morris, John G.
Musgrave, Alvin W., Jr.
Nichols, Clifford J.
Oberle, Michael J.
Oehrlein, William P.
Olio, John F.
Owens, Joseph F.
Owens, Robert K.
Paine, John S.
Parks, Leonard C.
Parrott, Ralph C.
Parsons, Donald S., Jr.
Peiffer, Robert H.
Perry, James H., Jr.
Pinskey, Carl W.
Ponder, Joseph E.
Price, Robert F.
Rasmussen, Kenneth H.
Rasmussen, Paul D.
Ringberg, David A.
Ruble, David R.
Sapera, Leonard J.
Schiel, William A., Jr.
Schultz, Robert A.
Scott, William C.
Sewell, John B.
Shannon, William N.
Shields, Edward J.
Siburt, Forrest N., Jr.
Smith, Charles E.
Smith, Richard M.
Standish, John A.
Stocker, Vernon D.
Stone, Charles W., Jr.
Sulek, Kenneth J.
Summers, John H.
Sussman, Richard M.
Szalapski, Jeffrey P.
Terwilliger, Bruce K., Jr.
Thomas, Gary L.
Treanor, Richard C.
Ullman, Robert C.
Vincent, Leonard, Jr.
Wagner, Gregory L.
Waldron, Andrew J., Jr.
Wallace, William W.
Wells, Paul D.
West, Karl P.
Williams, Richard H.
Williams, Robert J.
Wootten, John F.
Yaney, Donald L.

CHAPLAIN CORPS

Anderson, Kevin L.
Bartholomew, Carroll E.
Bergsma, Herbert L.
Bruggman, John A.
Collins, John M. III
Cook, Elmer D.
Coughlin, Conall R.
Dorr, Charles E.
Dunks, Max E.
Fiorino Alfred L.
Flick, Carl W.
Force, Daniel L.
Fuller, Ivan R.
Gates, Edwin A.
Germano, Vincent F.
Gill, Francis
Goode, James G.
Haskell, Peter C.
Jones, Harry T.
Kirstein, James F.
Knight, Norvell E.
Krulak, Victor H., Jr.
Kuhn, Thomas W.
Lovejoy, Bradford
Luebke, Robert B., Jr.
Matthias, Robert W.
McCloskey, Joseph W.
McCoy, Charles J.
McMahon, Gerard T.
Mellett, Robert C.
Moffitt, Robert G.
Muenzler, Leroy E., Jr.
Murray, Edward K.
Noble, Charles C., Jr.
Nobles, Bryant R., Jr.
Page, David G.
Rafnel, William G.
Read, Gordon A.
Richards, Gerald T.
Riley, Robert J.
Rogers, Theodore J.
Roy, Raymond A.
Smith, Jerry R.
Snow, Edward E.
Stewart, Lisle E.
Treibel, Albert R.
Vanfrank, Charles P., Jr.
Winnenberg, John O.

CIVIL ENGINEER CORPS

Andrews, Richard E.
Bare, James C.
Beuby, Stephen C.
Bookhardt, Edward L., Jr.
Crane, Thomas C.
Dillman, Robert P.
Edmiston, Robert C.
Everett, Ernest J.
Glenn, Danny E.
Griffith, Harry G.
Hansen, Robert E.
Harris, William F.
Hathaway, James L.
Heine, Richard F., Jr.
Hull, David N.
Kelley, Kenneth C.
Larsen, Laurits M.
Leap, Joseph B.
McCullagh, Paul W.
Mehlhorn, Peter F.
O'Connell, Brian J.
Pearson, Rufus J., III
Renzetti, Joseph L.
Robertson, William E., Jr.
Rohrbach, Richard M.
Rumbold, William W., Jr.
Shaw, Arthur R.
Sheaffer, Donald R.
Smith, Homer F., II
Smith, Ray A.
Stewart, Allen J.
Stewart, Stephen E.
Truesdell, Richard C.
Wood, James A.
Zimmerman, Gerard A.

MEDICAL SERVICE CORPS

Anderson, Francis G.
Beckner, William M.
Bond, James C.
Carroll, Jake R.
Clarke, Norman B.
Coan, Richard M.
Cunningham, Robert S., II
Curran, Patrick M.
Doll, Richard E.
Ferris, William A.
Fingerett, Sheldon N.
Funaro, Joseph F.
Furr, Paul A.
Gannon, John H.
Gibson, Richard S.
Gillespie, Franklin D.
Gooch, Roy L.
Green, Charles M.
Gregoire, Harvey G.
Hartman, Carl H.
Hutchins, Charles W., Jr.
Kozik, John R.
Lane, Norman E.
Newell, Richard L.
Payton, Richard A.
Peterson, Robert V.
Rosplock, Jerome D.
Self, William L.
Shaughnessy, Mary K.
Thomsen, Paul D.

JUDGE ADVOCATE GENERAL'S CORPS

Armstrong, Arthur J., Jr.
Boasberg, Robert, Jr.
Bohaboy, Howard D.
Brown, Michael A.
Burke, Charles R.
Cohen, William D.
Cromwell, James H.
Dalton, William H.
Davey, James A. G., Jr.
Derocher, Frederic G.
Durham, Joe B.
Edington, Donald E.
Erickson, John F.
Furdock, Ronald M.
Gall, Wiliam D.
Gerszewski, Melfred T.
Gormley, Patricia M.
Hosken, Edward W., Jr.
Kauffman, Robert K.
Keating, Timothy D.
Landen, Walter J.
Manning, Edward F.
McLeran, Robert H.
Norgaard, Kenneth R.
Rowe, Larry R.
Sinor, Morris L.
Turner, Patrick C.
Ancelard, Madeline M.
Armstrong, Kathryn A.
Armstrong, Susanne R.
Arnold, Mary A.
Bresnahan, Joan C.
Campen, Kathryn E.
Cote, Clarence W.
Dunn, Glenda G.
Foreman, Evelyn N.
Geraghty, Rosemary B.
Glass, Joan B.
Langley, Ann
Leadford, Bonnie A.
Lee, Elaine E.
Loughney, Juel A. M.
McKown, Frances C.
Medina, Elida D.
Monger, Kristen A. P.
Muszynski, Elizabeth F.
Odom, Helen A.
Ricardi, Jean C.
Riddell, June E.
Ridenhour, Barbara A.
Sheehan, Lona W.
Simler, Monica
Smith, Joann H.
Speckmann, Elissa M. A.
Tolar, Sara C.
Triplett, Audrain M.
Troseth, Marie P.
Wildeboer, Henrietta M.
Witherow, Mary A.
Wray, Fay
Zuber, Frances E.

The following named woman lieutenant commander of the U.S. Navy for permanent promotion to the grade of commander in the Supply Corps, pursuant to title 10, United States Code, section 5771, subject to qualification therefor as provided by law:

Judd, Paula M.

IN THE NAVY

The following named ensigns of the U.S. Navy for permanent promotions to the grade of lieutenant (junior grade) in the line and staff corps, pursuant to title 10, United States Code, section 5788a, subject to qualification therefor as provided by law:

LINE

Amelon, Richard R.
Ament, Joseph W.
Ament, Marion D.
Anthes, Ernest S.
Antony, Edward T.
Archer, Paul L.
Atkins, Thomas B.
Atwood, Daniel L.
Baker, James M.
Banus, Markham D.
Barber, Nelson W.
Bary, Charlene A.
Baughman, Lynn D.
Bayma, Benjamin A., Jr.
Beamer, James C.
Beatty, Florence E.
Beersdorf, Jerry W.
Beimborn, Susan M.
Benavidez, Ralph L., Jr.
Bender, Gregory L.
Beres, Dennis P.
Bewley, John M.
Black, Margaret A.
Blevins, Jerry L.
Bloom, John M.
Bloomer, James W., II
Roschert, Gregory H.
Boswell, James H.
Braisted, Stanley W.
Briley Jo.
Broadway, Michael W.
Brown, Janice R.
Brown, Robert C.
Bubula, Richard A.
Buck, Caryl E.
Burger, Rolf J.
Burgess, Leslie A.
Bushong, Anne L.
Butler, John D.
Cable, Larrie G.
Caddell, Marvin R.
Callier, Robert D.
Cameron, Wallace R., Jr.
Carlson, Craig D.
Carpenter, Edward J.
Carpenter, Timothy E.
Cassias, Jeffrey B.
Chaloupka, Joy L.
Clark, Frank N.
Clary, Michael D.
Cloyd, James D.
Cole, Walter B.
Coles, Bryan D.
Comer, Kenneth W.
Comi, Patrick M.
Cooke ,Terrence A.
Coullard, Mary V.
Coulter, Stephanie L.
Cowley, Kevin J.
Cowley, Robert E., III
Crawford, Billie E.
Crocker, Michael D.
Crow, David L.
Crowe, Richard C.
Cuaderes, Ricardo A.
Culver, David R.
Culver, Walter C.
Currier, Charles R.
Curry, Kenneth W.
Dalton, Jerry W.
Davidson, Gary R.
Davis, William T., Jr.
Day, Margaret E.
Debs, Brian T.
Denis, David A.
Denton, James S.
Devane, Benjamin L.
Deyke, Thomas M.
Dickason, Clarence W., Jr.
Dillow, Robert G.
Dilmore, William D., Jr.
Ditewig, William T.
Dixie, Wilmer B.
Douglas, Rex R.
Downing, Julie A.
Duncan, James L.
Duncan, Ralph E.
DuPaul, Gilbert A.
Dyer, Lawrence C.
Edwards, Kenneth R.
Egbert, Jean L.
Evans, John D.
Ewing, Ronald J.
Farver, Mary
Fellows, Larry A.
Fenzl, David P.
Ferris, Joyce M.
Field, John G.
Flammang, Harold J., Jr.
Flynn, John E.
Foley, Patrick J.
Fonnesbeck, Robert W.
Ford, William A.
Foster, John I., III
Fowler, Harold E., Jr.
Foureman, Ariadna R.
Friction, Robert K.
Fursman, Thomas M.
Gahran, Brian H.
Gates, Gregory F.
Genereux, Donald E.
Gertz, Dwight L.
Giesey, William C.
Gilchrist, Lorri P.
Gillespie, Richard D.
Gilliland, Manuel A.
Gilmore, James R.
Gilson, Robert L.
Gimma, Joseph A., Jr.
Gladden, Riley J.
Graf, Joseph G.
Graham, Sheila A.
Grant, Michael C.
Granucci, Richard A.
Grause, Jerome E., Jr.
Graves, William B.
Green, Norman K., Jr.
Guenther, Siegfried
Gullick, Jerry W.
Guth, James D.
Haas, James E.
Haas, Robert C.
Haefner, Gregory G.
Hagin, James M.
Hales, Randolph F.
Hambrock, Paul E.
Hanrahan, John M., Jr.
Hansen, Cindy A.
Hardy, Thomas E.
Harrell, Ronald R., Jr.
Harris, Ernest A., Jr.
Hayden, Ernest N.
Hays, Charles E.
Heard, Maurice E., III
Heffley, John M.
Helsell, Peter F.
Henry Candyce S.
Hessey, John H. V.
Hillier, David G.
Hirabayashi, Donna M.
Holloway, Stanley J.
Holmes, Douglass M.
Hopkins, Arni T.
Howard, Andrew J.
Hutcheson, Chester J. Jr.
Jaap, Joseph B.
Jackson, Andrew E.
Jagoe, Donald A.
Jahnke, Larry D.
Jenkins, Robert E.
Johnson, Darrell J.
Johnson, Douglas A.
Johnson, Kirk E.
Johnson, Ralph B.
Johnson, Richard A.
Johnson, Warren H.
Johnson, William W.
Jones, James O.
Jones, Richard L.
Jones, Ronald E.
Jones, Steven A.
Jones, Thomas D.
Kaeser, Dana S.
Keeley, James J.
Keene, Donald L.
Kelly, Scott H.
Kent, Tycho L.
Knapp, David A.
Kruschke, Dale E.
Kruse, Marcia A.
Kuehnle, Donald W.
Labaw, Richard A., Jr.
Landis, Kerry D.
Langford, John D., Jr.
Langley, Conrad A., Jr.
Larrabee, Robert A., Jr.
Larson, Kathleen E.
Larue, James W.
Lavigne, Barry A.
Lawrence, Ronald J.
Leghart, Martin J., Sr.
Leighty, Melinda. J.
Levedahl, William K.
Lindamood, Edgar V.
Lisak, Keith S.

Lisota, Gary
Liss, Stanley M.
Locke, Rodney M.
Luoma, Stephen R.
Lutes, Frank A.
Luther, Ronald J.
Lynch, Anne
Manion, Mark M.
Marks, Harry E.
Martin, Clifton C., Jr.
Martin, Edwin H., Jr.
Martin, Richard, L., Jr.
Masden, Joseph T.
Matheny, Leonard R.
Mathison, Robert C.
Maurer, Michael L.
Maybaum, Susan C.
Mayhue, Frank M. III
Menocal, Serafin G.
Messersmith Roger J.
Metskas, Michael A.
Meyers, Michael J.
Miller, Donald R., Jr.
Miller, James J.
Miller, James R.
Miller, Michael C.
Miller, Ronald I.
Mills, James G.
Mingle, Leo L.
Mitchell, Michael P.
Morris, Joel L.
Morse, Ronal B.
Mosley, Harold, Jr.
Moss, Alice M.
Mueller, Robert D.
Murphy, Vincent L., Jr.
McCannel, Gregory J.
McCauley, Karen L.
McClelland, Roger C.
McEwan, Llewellyn F.
McHugh, Robert J.
Naumann, James W.
Neal, Thomas S.
Neff, James R.
Nelson, Howard K.
Newton, Wayne J.
Nowakowski, Michael P.
Oker, William R.
Niland, John F., Jr.
Noonan, Ruth S.
Olson, Carl D.
Opitiz, Martin E.
Orourke, John T.
O'Shaughnessy, John L.
Paha, Edmund J.
Pannell, Thomas B.
Pappenfus, Patrick A.
Patterson, Robert F.
Paulewicz, Frank W., Jr.
Peyronel, Sharon A.
Phillips, Stephen W.
Pierce, Burt W.
Plato, Gayle J.
Plouse, Henry S.
Poulos, Terrence P.
Pratt, David L.
Pritchard, Nolie D., Jr.
Provenzano, Joseph G
Pryjmak, Peter G.
Purington, David A.
Rantanen, Robert W.
Redmon, Danny R.
Ricketts, Steven D.
Rider, Maradee
Rindler, Mark S.
Rix, William H.
Rhinesmith, Gary R.
Robinson, William R.
Rocheleau, Karen D.
Rosenberg, Joan R.
Rossi, Thomas J.
Sales, Christopher A.
Sampson, Thomas N., II
Saunders, Charles C.
Schoultz, Robert P.
Schueneman, Frederick W.
Scott, David A.
Sharp, Michael A.
Sheffield, James W.
Sindlinger, William J.
Singer, Donald R.
Single, John M.
Sipe, Alan M.
Skurla, Dale G.
Smedberg, Richard A.
Smith, Billie L.
Smith, Norman K., II
Smith, Pamela A.
Sneed, Brandon M.
Sokolowski, John A.
Sondergaard, John M.
Spatafore, Gene A.
Stanley, William B.
Starzy, Virginia L.
Stephenson, Richard D.
St. Pierre, Larry
Streeter, Paul J.
Sullivan, Mark P.
Tesch, Thomas G.
Thompson, Judy H.
Thorn, David J.
Tillotson, Robert N.
Todd, James A.
Tournier, Johanne L.
Towne, James B.
Tracy, Robert E., Jr.
Trasoras, Edward C.
Turner, Dick W.
Uhal, Howard T.
Uhlig, Phillip C.
Vanderford, William D.
Vanduyne, George S., Jr.
Vannatter, Richard P.
Vittitoe, Barbara J.
Vollmer, Leo W., Jr.
Vonk, Martin J.
Walter, Ainslie B.
Watson, Judith A.
Wedoff, Steven D.
Weimer, John C.
Wells, William A.
West, Robert T.
White, Donald D.
Whyms, Michael L.
Wicks, James H., Jr.
Wiggers, Raymond P., Jr.
Wilken, Dennis R.
Wilson, Joseph D.
Withrow, John F.
Wittenberg, Charles F.
Worst, Terry J.
Wyler, Nancy K.
Yantis, Kathleen M.
Yeager, Merle E.
Zebrowski, Christine A.
Zambrano, Steven P.

SUPPLY CORPS

Apple, Chris L.
Appelquist, James S.
Ballard, Susan W.
Benson, Nanette E.
Bente, John T.
Bristow, William D.
Brooks, Stephen B.
Brown, Gregory A.
Burns, Shirley J.
Corbett, John C.
Dixon, Jeffery A.
Easton, Gregory B.
Fargo, Keith B.
Finney, Thomas G.
Flanagan, Patrick J.
Graham, John M.
Guion, Stephen W.
Hartman, Douglas M.
Henderickson, Robert, C., III
Hess, Donald W.
Higgins, Guy M., Jr.
Holcomb, Carl D.
Huntress, Diana E.
Johnson, Michael D.
Kiggins, Richard A.
Kokosinski, Mark E.
Maguire, William J.
McGarrett, William J.
Mondiek, David D.
Morgan, Everett M.
Munson, Timothy O.
O'Connor, Vincent T.
Oller, Arthur G.
Payne, Jack B., Jr.
Russell, Robert M.
Ryan, John F., Jr.
Siebenschuh, Frederick R.
Simcich, Michael A.
Sperry, Charles K.
Stanton, Marjorie J.
Stephens, Thomas L.
Stroupe, John B.
Tomlin, Henry B., III
Townsend, Paul J., III
Watson, Peter W.
Westlake, Edward L.
Williams, John A., Jr.
Winstead, William G.

CIVIL ENGINEER CORPS

Bertsche, Arnold E.
Carver, Gary F.
Curd, Andrew T.
Frey, Kenneth P.
Knudson, Daniel F., Jr.
Ludwig, Kurt J.
Ross, Steven R.
Titus, George H.

MEDICAL SERVICE CORPS

Bosshard, Nancy L.
Dillingham, Joe G.
Gregory, Gary D.
Hart, Gene D.
Stein, Cynthia A.
Walsh, Richard J.
Williams, Peter N.

NURSE CORPS

Butzow, Robert E.
Dixon, John A.
Felix, Kate G.
Kelly, Marie E.
Pasbrig, Catherine P.
Rusnak, Diane L.

The following named lieutenants (junior grade) of the U.S. Navy for temporary promotions to the grade of lieutenant in the line and staff corps, pursuant to title 10, United States Code, section 5769 and 5773, subject to qualification therefore as provided by law:

LINE

Jury, Jayson L.
Lumsden, John C., Jr.
McBarnette, Curtis W.
Rimpau, James W.
Skjoldager, Jack O.

SUPPLY CORPS

Foster, Robert L.
Hughes, Gary J.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 4, 1977:

NATIONAL ENDOWMENT FOR THE ARTS

Livingston L. Biddle, Jr., of the District of Columbia, to be Chairman of the National Endowment for the Arts for a term of 4 years.

EXPORT-IMPORT BANK OF THE UNITED STATES

Donald Eugene Stingel, of Pennsylvania, to be a Member of the Board of Directors of the Export-Import Bank of the United States.

NATIONAL COMMISSION ON NEIGHBORHOODS

Joseph F. Timilty, of Massachusetts, to be Chairman of the National Commission on Neighborhoods.

DEPARTMENT OF THE TREASURY

Stella B. Hackel, of Vermont, to be Director of the Mint for a term of 5 years.

FEDERAL COMMUNICATIONS COMMISSION

Tyrone Brown, of the District of Columbia, to be a Member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1972.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committees of the Senate.

EXTENSIONS OF REMARKS

FORREST GERARD, NEW ASSISTANT SECRETARY FOR INDIAN AFFAIRS

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Thursday, November 3, 1977

Mr. METCALF. Mr. President, when Secretary Cecil Andrus revamped the leadership structure of the Interior Department, he elevated Indian matters to new prominence by appointing an Assistant Secretary for Indian Affairs. His choice for the new post was Forrest Gerard, a Blackfoot Indian from Browning, Mont., who was confirmed unanimously by the Senate and is now officially holding the position.

All who know Forrest Gerard agree that he was a splendid choice. They also know that he assumes office at a critical juncture in Indian affairs. Mr. Gerard has indicated that he intends to make changes in the way Indian matters are handled—and that he intends to be an advocate for the Indian position when he feels that position is right. Given the increasing number of lawsuits in Federal courts involving Indians, Mr. Gerard may become—whether he wishes it or not—a household name.

Given the importance and impact of the new post, I think it is valuable for my colleagues in the Senate to know more about the new Assistant Secretary and his philosophy. I therefore ask unanimous consent to have printed in the RECORD an article which appears in today's edition of the New York Times telling about Mr. Gerard and his hopes for Indian affairs under the Carter administration.

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

INDIAN, STARTING JOB AS AIDE TO INTERIOR SECRETARY; SEES BACKLASH IN CONGRESS OVER TRIBAL LAND CLAIMS

(By Seth S. King)

WASHINGTON, October 31.—Forrest J. Gerard, a Blackfeet Indian from Montana, has taken over as Assistant Secretary of Interior for Indian Affairs at a time when his people are as embattled, he says, as his ancestors were when whites tried to take valuable reservation land in the 1880's.

More than a score of lawsuits challenging the sovereignty of Indian tribes over their reservations are making their way through the Federal courts. On the other hand, Eastern tribes are claiming large tracts of land in Maine, Connecticut, Massachusetts, New York and Rhode Island.

"And," Mr. Gerard said in an interview Friday, "an increasing hostility toward Indians is developing in Congress where we're confronting the most serious backlash we've ever faced."

"We need a solution to temper the attitudes of the Eastern Congressmen, who have certainly faced new problems because of the