APRIL 3

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Office of the Secretary and the Office of the Solicitor.
1224 Dirksen Building

APRIL 4

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

APRIL 5

9:30 a.m.
Veterans Affairs
To hold hearings on proposed legislation extending certain veterans' health benefits programs through FY 1980.
5110 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 1980 for the Heritage Conservation and Recreation Service.
1224 Dirksen Building

APRIL 10

9:30 a.m.
Veterans' Affairs
To hold oversight hearings on the role of the Federal Government in providing educational, employment, and counseling benefits to incarcerated veterans.
6226 Dirksen Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Fish and Wildlife Service.
1223 Dirksen Building

APRIL 12

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Mines.
1223 Dirksen Building

APRIL 24

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Bureau of Land Management.
1223 Dirksen Building

APRIL 25

9:30 a.m.
Veterans' Affairs
To mark up S. 330, to provide for a judicial review of the administrative actions of the VA, and for veterans' attorneys fees before the VA or the courts.
412 Russell Building

10:00 a.m.
Appropriations
Interior Subcommittee
To resume hearings on proposed budget estimates for FY 1980 for the Department of the Interior, to hear Congressional Witnesses.
1223 Dirksen Building

APRIL 26

10:00 a.m.
Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimats for FY 1980 for the Office of Surface Mining Reclamation and Enforcement.
1223 Dirksen Building

MAY 1

9:30 a.m.
Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of the Older American Volunteer Program Act (P.L. 93-113).
4232 Dirksen Building

SENATE—*Wednesday, February 21, 1979*

(Legislative day of Monday, January 15, 1979)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Honorable PAUL E. TSONGAS, a Senator from the State of Massachusetts.

PRAYER

The Honorable JOHN C. DANFORTH, a Senator from the State of Missouri, offered the following prayer:

Let us pray:

Hour after hour we sat in crowded airports, waiting for planes to leave for Washington. On arrival, we dug the drifted snow away, straining shoulders and backs as we struggled to free our captive cars. Spinning, rocking forward and back, we finally gained momentum, and set ourselves on course for our destination. Warned by radio traffic advisories, alert for patches of ice, we proceeded carefully to the Capitol. At long last, we are here. We have made it. Grant us gracious God, the same patience, the same effort, the same endurance in Your service, that each day may be dedicated to the doing of Your will. Grant that we may proceed, step by step, hour by hour, meeting the challenges You have given us, so that, at the end, the purpose You have set out for us may be accomplished to Your glory. Amen.

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. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 21, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL E. TSONGAS, a Senator from the State of Massachusetts, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. TSONGAS 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 be approved to date.

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

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators?

The ACTING PRESIDENT pro tempore. No, there are none.

Mr. ROBERT C. BYRD. Mr. President, is there an order for routine morning business?

The ACTING PRESIDENT pro tempore. There is no such order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 20 minutes, with statements therein limited to 2 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, for not to exceed 1 minute, to consider the first two nominations on the Executive Calendar.

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

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

FEDERAL ELECTION COMMISSION

The second assistant legislative clerk read the nomination of John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission.

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

Mr. ROBERT C. BYRD. Mr. President,

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

I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

The second assistant legislative clerk read the nomination of Max L. Friedersdorf, of Indiana, to be a member of the Federal Election Commission.

Mr. BAKER. Mr. President, it is my distinct pleasure to rise in support of the nomination and to support the confirmation of the appointment of Max L. Friedersdorf.

The ACTING PRESIDENT pro tempore. 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. 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 ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

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

Mr. BAKER. Mr. President, I am delighted with the confirmation today of Max L. Friedersdorf, of Indiana, to be a member of the Federal Election Commission. He will bring to that important position a unique blend of commonsense, talent, and experience. It should be noted that Max Friedersdorf has already performed distinguished public service for our country as the Assistant to the President for Legislative Affairs and recently as the staff director of the Republican policy committee in the U.S. Senate. It has been a genuine personal pleasure to work closely with Max in both of those capacities. I am certain that his professional presence as staff director of the Senate Republican policy committee will be sorely missed by all of us on my side of the aisle. Nonetheless, I know that my colleagues join me in saluting his confirmation to the Federal Election Commission and in extending to Max our heartiest congratulations and sincere best wishes.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. 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.

THE GENOCIDE CONVENTION: HISTORY AND NECESSITY

Mr. PROXMIRE. Mr. President, for 13 years I have spoken in this Chamber thousands of times on the Genocide Convention and, in fact, almost every day we have been in session, on how it relates to current issues and on specific arguments pro and con. In dealing with the many and complex facets of the Genocide Convention, we must not lose sight of its original purpose and the history of its tribulations.

The Genocide Convention was proposed at the first session of the United Nations on November 2, 1946—1946—a world reeling in the aftermath of the holocaust, a world shocked by the horrifying crime which defined the word "genocide," a world determined never to let this happen again. But, Mr. President, this determination has dangerously been allowed to fade.

The United States was party to the unanimous U.N. adoption of the Genocide Convention in 1948. Soon afterward, President Truman, realizing the significance of the treaty, transmitted the Genocide Convention to the Senate. Mr. President, every President since that time has, as well, strongly endorsed the Convention.

The Foreign Relations Committee and Subcommittee have since 1950 consistently recommended the Convention favorably to the Senate.

The American Bar Association, which for many years had hesitations about the Convention, now unequivocally supports it.

Mr. President, every argument against the Genocide Convention has long since been resolved.

The Genocide Convention was the first human rights resolution of the United Nations and it is still the most important. Ratification by the U.S. Senate is essential for the treaty to have the worldwide consequence it should have. There is only one way for us to demonstrate our convictions: We must act now to ratify the Genocide Convention.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, how much time for morning business remains?

The ACTING PRESIDENT pro tempore. Four and a half minutes.

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

Mr. President, I ask unanimous consent that there be 10 minutes in totality for routine morning business and that statements be limited therein to 5 minutes each.

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

Mr. MOYNIHAN. Mr. President, may I first thank the majority leader for his courtesy in arranging 5 minutes within which I might speak on two subjects which strike me as having some relevance.

BEHIND THE LINES

Mr. MOYNIHAN. Mr. President, I call attention to an editorial comment in the current issue of Texas Monthly called "Behind the Lines," which seems to me to be most apt with respect to the relationships between the Snow belt and Sun belt. It is a very candid comment about a Texan's view of New York and its problems.

Mr. President, in a spirit of comity and of acknowledging the validity of a good many of the things that are said, I ask unanimous consent to print in the RECORD the editorial by William Broyles in the February 1979 issue of the Texas Monthly.

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

BEHIND THE LINES

Not too long ago American Airlines announced it was moving its corporate headquarters from New York City to Texas. New Yorkers reacted as if the airline were trying to spirit away the Statue of Liberty. "A betrayal," Mayor Koch called it. Taxi drivers, policemen, firemen, civil servants, and a number of companies announced a boycott of American. TWA ran large ads swearing its fealty to New York. Pan Am, which supposedly had been considering moving to Houston, announced that it was in New York for good. *New York* magazine published an indignant article that all but called on New Yorkers to switch to other airlines. At the top of one page in large type was this quote: "'Why should I subsidize Dallas when I pay taxes in New York?' says one frequent passenger. 'Texas doesn't need my help.'"

Why are New Yorkers so upset? After all, we didn't complain when Texaco (the Texas Company, remember?) abandoned us for New York, when Standard Oil (which started in Cleveland) bought Humble and moved it to New York, or when American Airlines left Texas in the first place, back in the thirties. So completely has New York dominated corporate wealth and power in America that we Texans believed, as New Yorkers did, that its preeminence was ordained. That preeminence, however, was ordained less by the Almighty than by sound economics. Before telephones, computer terminals, and jet airplanes, our national economy needed a financial and corporate center. Today major companies are finding they can do quite well in the New York suburbs or even in Dallas, Texas. The other foundations of New York—its role as a manufacturing, financial, media, and cultural center—are also weakening; both money and vigor are flowing into the rest of America. In spite of what New Yorkers seem to think, there is nothing any more immoral in leaving New York than in going there in the first place. For decades the rest of the country couldn't compete with New York. Now we can.

Many of New York's problems are shared by other cities of the Northeast and Midwest. Their economies are sluggish, their tax bases are shrinking. Understandably, they don't believe that the dispersion of American industry and population is as good for the country as was its original concentration in their regions. They believe instead that their plight is the fault of the rest of the country, particularly that group of states, including Texas, they have come to call the "Sunbelt." In Congress their representatives

have formed the "Snowbelt" coalition. They don't want the federal treasury to "subsidize" Sunbelt states; instead they want to pour massive doses of tax money into the Northeast and Midwest.

Reduced to its essence, the Snowbelt's basic principle is that poverty, unemployment, and substandard housing are national problems if they occur in Snowbelt cities, but local problems if they occur in states like Texas. So successful have they been in writing federal spending formulas that Texas received less antirecession assistance than did Rhode Island and Connecticut combined, although we had more than twice as many unemployed. A rich city like Newton, Massachusetts, thanks to formulas designed to benefit older cities, will receive three times as much new federal money to upgrade housing (even though its vintage houses are inhabited by wealthy people) as a city like Brownsville, whose predominantly poverty-stricken residents have the misfortune of living in overcrowded, substandard, but newer buildings.

Let's remember that what prosperity we have in Texas is both newfound and overdue. Texas (population 12,500,000) has more poor people than the state of New York (population 18,250,000). Along our border with Mexico are the poorest countries in the nation, where almost half the families earn below the poverty line and live in substandard, overcrowded housing. Glittering Houston has more substandard housing than blighted Detroit. Hidden within Houston's city limits is a central pocket of poverty and urban decay that contains more people than Newark, New Jersey, the quintessential decaying Northeastern city. The Fifth Ward, part of this pocket of poverty, is the setting for "Only the Strong Survive," by Richard West, which begins on page 94. The formulas for targeting federal aid drawn up by the Snowbelt Congressmen are specifically designed to ignore Fifth Ward, which is not a city, and to benefit Newark, which is. The victims of the Snowbelt offensive are not wealthy Texas oilmen. The victims are the poor of Fifth Ward, of South Dallas, of West Side San Antonio, of Laredo, Fort Worth, and El Paso. They don't need their fair share of our fellow Americans' hard-earned tax dollars because they are Texans, but because they are just as poor and unemployed as their counterparts in New York, Detroit, and Philadelphia.

In a recent column in *Newsweek*, George Will wrote that "New York's coming [financial] crisis will test something newly relevant to America, the ability of representative institutions to manage decline." Will's sentiments are correct, but his history is wrong. The representative institutions of small towns and rural counties have been managing decline for three generations. More than one hundred of Texas' 254 counties lost population between 1910 and 1970, some losing more than half. New York, like most cities, profited from the economic conditions that killed the small town. But, in one of history's more poignant ironies, the abandoned hulks of housing projects in the South Bronx have become the urban equivalents of the boarded-up Main Streets in small towns throughout America.

In the cold terms of the marketplace, the best way for the rest of us to help New York and its sister cities would be to do nothing. People follow jobs and opportunities, unless they have incentives to stay where there are none. The welfare state New York created in its flush times is like an artificial life support system forestalling the inevitable. True compassion would be to subsidize New Yorkers to leave New York, since they would be better off working in North Carolina and Texas than on welfare in the Bronx, just as Texans from Cranfills Gap are better off working in Dallas or Houston than unemployed on the farm. The real barrier to any sensible approach to New York's problems is the instinctive, but mistaken, belief that the movement of people from rural America to cities like New York was progress, but the movement of people out of cities like New York is disaster.

The typical response of government, after having helped create such fundamental historical movements, is to try to forestall them—hence the spending formulas favoring the Northeast and the Alice in Wonderland attitudes of the city government of New York. But we can no more forestall the decline of the Northeast than Winston Churchill could prevent the decline of the British Empire. The sooner the Northeast recognizes its competitive disadvantages with the rest of the country, the sooner it will reach some equilibrium of jobs and population. After all, jobs and population are returning to rural areas blighted for two generations. They will probably return to the Northeast one day, particularly if Texans make as much a mess of prosperity as New Yorkers did. Dallas, for example, is already worried that its municipal pension program could bleed the city dry, forcing up tax rates, making Dallas less attractive for business and . . . did someone mention New York? New York's lesson for us is a simple one: it *can* happen here, even with American Airlines.—*William Broyles.*

Mr. MOYNIHAN. Mr. President, I particularly, acknowledge the validity of the concern which the Texas monthly expresses about the nature of Federal programs which find older cities to be qualified under set formulas for Federal aid whilst they are unable to deal with the sometimes extraordinarily dense and extraordinarily needy newer cities.

The wards of Texas cities are built up with some of the poorest, the most needy people in the Nation. They have claims, too.

I would simply like to join with my dear friend and colleague, Senator BENTSEN, in saying that there are indeed parts of Houston, Dallas, and the whole region including the cities of San Antonio, Laredo, Fort Worth, and El Paso that have claims that need to be acknowledged.

Certainly I, as a New Yorker, would want to be among those to acknowledge them, and I would like particularly to acknowledge the advocacy of Senator BENTSEN in drawing attention to them.

DECLINE OF AMERICAN MILITARY EFFORT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent to have printed in the RECORD the testimony of Secretary of Defense Harold Brown this morning before our Senate Budget Committee. In it, he outlines the decline of American military effort over 15 years in a way that seems to me extraordinary. He states that the budget forthcoming reflects, and I quote, "The President's determination to begin countering the Soviet military buildup that had been underway for over 15 years"—a proposal which, should it come about, has the largest possible strategic consequences of this political generation.

The President is saying, if we understand Secretary Brown correctly, that for 15 years the military position has been deteriorating. I asked the Secretary in questioning, "Are you saying, Mr. Secretary, that for 15 years the military position of the United States with respect to the Soviet Union has been deteriorating?" He said, in effect, "Yes."

I asked the Chairman of the Joint Chiefs of Staff, General Jones, if he would agree that this is the case—since he in fact stated it—that we now have come from a position of overwhelming preponderance to "rough parity," and if that trend continued would it be fair to assume that in 3, 4, or 5 years' time the Soviet Union would have achieved a military preponderance over the United States; and the Chairman of the Joint Chiefs of Staff said yes, that would be fair to assume.

It therefore certainly behooves us to ask two things, of ourselves: One, how did we get to a point at which, with almost no public awareness—and with the Chairman of the Joint Chiefs and the Secretary of Defense agreeing—in 3 or 4 or 5 years' time the Soviet Union is likely to be the predominant military power of the world; and, secondly, what is the real prospect of reversing a relationship of that kind in a period of 3 to 5 years? I think 5 years is the period we emphasized.

Such trends get an economy deep into an institutional bind, and reversing them is scarcely likely to be an easy thing to do.

In any event, it suggests to me that the reality of our relationship to the Soviet Union in the years ahead is going to be one of protracted crises.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Is there objection to entering Secretary Brown's statement in the RECORD?

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

STATEMENT OF THE HONORABLE HAROLD BROWN

Mr. Chairman and Members of the Committee: I appreciate the chance to discuss with you the FY 1980 Defense Budget, including, specifically, a number of points that have arisen in public debate since the President's Budget was sent to you.

This year we are submitting, along with our request for FY 1980, a $2.2 billion (TOA) supplemental request for FY 1979 that will generate $595 million in outlays. If approved, this action will return the FY 1979 Defense budget authority to approximately the level originally requested in January 1978.

The planned FY 1979 Defense level of $125.8 billion in TOA reflects the President's determination to begin countering the Soviet military build-up that has been underway for over 15 years. The supplemental will permit us to:

Accelerate our efforts on the much-needed new land-based strategic missile and its mobile basing.

Provide the FY 1979 U.S. share of NATO AWACS and add to our capabilities for reinforcing NATO.

Add needed surface combatants to our Navy shipbuilding program.

Make further improvement in the readiness of our forces. Without the supplemental, real Defense authority will decline 0.6 percent in FY 1979 from the FY 1978 enacted budget.

Let me say that this supplemental is very important to us. We need it now. We need it to keep the MX program on a schedule responsive to the new estimates of Soviet ICBM capabilities in the 1980's. We need it to pay $97.7 million in ships settlement claims which, if authorization is not provided by March 31, must be renegotiated at probable added cost to the Government. We need it to provide funding for NATO-oriented equipment and readiness items and for the NATO AWACS. This will enable us to keep

NATO capabilities from falling behind in the face of Soviet actions—and to show that the U.S. intends to do its part. Moreover, the Congress urged us—through your colleagues on other committees, and some of you yourselves—to introduce this supplemental. The reason given, with which we agree, is to provide an alternate program restoring cuts Congress made to make room for a program—the nuclear carrier—that in the end itself failed of authorization. What is involved is restitution of our program, not expansion.

Let me now speak to our overall FY 1980 budget request. The President's proposed Department of Defense budget for FY 1980 is $135.5 billion in TOA, $135 billion in Budget Authority, and $122.7 billion in outlays (excluding $100 million for Civil Defense which will now be a part of the Federal Emergency Management Agency). These totals will provide:

3.1 percent real increase in spending over that now estimated for FY 1979 including the supplemental.

1.7 percent real increase in TOA, which reflects the long-term effects of the proposal.

Even with this level of funding, Defense outlays will be about:

4.9 percent of the expected Gross National Product; in constant buying power the level will be 4.6 percent, the lowest since FY 1940;

23 percent of all Federal spending—with the exception of FY 1978 the lowest level since FY 1940;

Less than 15 percent of all public spending—including State and local—again, the lowest levels since FY 1940.

In short, if both the FY 1979 supplemental and FY 1980 budget are passed as requested, U.S. Defense will, by these significant measures, still receive the lowest fraction of our resources in 40 years—that is, the lowest ever within the adult experience of most of us in this room.

Before discussing why I believe we must start to increase our real military spending, let me deal with an allegation often heard about the Department of Defense—that it has surplus funds which it cannot spend. This year, as last, the issue has been raised about the levels of funds the Department has unobligated—that is, budget authority against which we have not written contracts, and those funds we have obligated but not spent.

Defense unobligated funds have risen from $19 billion in FY 1977 to $23.2 billion in 1980. In constant 1980 dollars the level of unobligated funds has remained constant over that period. The ratio of unobligated funds to obligational authority for industry purchases (that is, TOA with military and civilian pay and allowances removed) has actually declined since FY 1977 and is lower than the average for FY 1972–76. In short, we are controlling our unobligated funds today as well or better than in the recent past.

Unobligated funds are the direct result of the Congressionally-mandated and correct, practice of full funding of major weapons systems that spend over more than one year. It should be noted that these funds are pragramatically committed. The Department does not attempt to place all contracts in the year in which the program is authorized—to do so would not be desirable. Some funds for short-term contracts are held until first long-lead contracts are shown to be on schedule.

Viewed slightly differently, the Department is obligating at a rate of $71.3 billion for industry purchases (or $133.9 billion, total) in FY 1980. It will maintain an end-year unobligated balance of $23.2 billion, or about four months of purchasing (or two months based on total expenditures). Given that many major programs (especially shipbuilding) stretch for five years or more, and given Congress' insistence on care in contracting procedures, a four month end-year working balance is surprisingly small. The figure for the rest of the Government is about 12 months, that is, about three times as large a fraction of the appropriated funds are unobligated at the end of the year—and since non-defense appropriations are about three times as large as those for defense, that means about ten times as much unobligated money in non-defense as in defense programs. Unexpended balances are about seven times as large in non-defense as in defense programs.

Each year, at budget time, the presentation of the Administration's Defense budget raises the same three rather basic questions. The questions, although essential to an orderly consideration of the budget are, as a rule answered only indirectly. Today, I propose to answer these questions directly. They follow:

Is our Defense program in reasonable balance with other federal programs and public sector spending as a whole?

Are the funds we are now proposing actually adequate to provide for our defense?

Does the Defense budget represent the intelligent selection of reasonable priorities among competing defense needs?

Does the Defense budget represent the intelligent selection of reasonable priorities among competing defense needs?

First, lets discuss defense as a part of a reasonable balance within the National Budget. Defense has not grown and is not growing at the expense of other Federal programs. Although the point seems to have been largely ignored thus far in this year's budget debate, it seems to me that for this committee—part of whose duty must be to insure that reasonable and appropriate policy choices are reflected in the National Budget and that important National needs not go unattended—this is a major consideration. For the period of twelve years from 1955 to 1967, Defense amounted to about one-half of the obligational authority of the Government annually. (You can see that on Chart 1, where Defense authority is shown in constant dollars for the past 30 years). Since that time, non-defense programs have risen over three times in constant 1980 dollars, while Defense has shrunk to about its pre-Vietnam levels. Measured in constant 1972 dollars, Defense obligational authority is today 1.1 percent below that of 1964.

Defense outlays show the same trends in obligational authority. We now project Department outlays to be 9.1 percent below their 1964 level in constant 1980 dollars, and 22 percent of the Federal total (Chart 3).

I believe these comparisons are fair although they include the outlays for Social Security and from other trust fund and "non-discretionary" accounts. After all, the taxpayer has to pay for those as well as other non-defense and defense costs. Actually, parts of our Defense effort such as the core of our strategic nuclear forces are, in fact, some of the last "discretionary" expenditures of the Government, and military retirement costs are counted in the defense account. I also believe these comparisons are fair in that they show the long-term course of the allocation of our national resources, and the implications for our budgets and programs today. In the longer run the full range of Government expenditures are controllable by Congress. Both in the long-term and the short, Defense competes for budget dollars on the margin with the full range of services the Government provides. It is this competition that forces us all with choices, to the extent that expenditures are fungible.

Another measure of the Defense claim on national resources is the fraction of the total U.S. labor force devoted to Defense activities—that is all military and civilians employed by the Department plus all civilians employed by Defense-related industries. Today, that number stands at just over five million people, the lowest in absolute terms and, at 4.9 percent, the lowest percentage of the labor force since 1941.

Perhaps a more sensive measure of priorities in the current budget is a comparison of Defense with other Departments, for example, the Department of Health, Education and Welfare. In FY 1979–80 Defense budget authority will increase 7.3 percent as compared to 10.3 percent for HEW; in outlays Defense will increase 8.8 percent compared to 9.3 percent for HEW. Because the HEW budget is now 50 percent greater than that of Defense, percentage changes do not tell the whole story. The actual marginal dollars committed to HEW's social programs, and I believe those are very necessary programs, will be about twice those committed to Defense.

This major shift in the balance of federal expenditures away from Defense is not the only impact of the trend to greater Federal emphasis on social and human services. There have been analogous shifts in the patterns of Department expenditures themselves. Today, the Department must pay proportionately more for personnel and their support than in the past. With relatively constant budgets in real dollars, this has forced reduction in manpower, force levels and new investment. Since FY 1964, the last year prior to the Vietnam buildup, the consumer price index has risen 2.36 times. The per-man cost of our military forces has risen 3.1 times, or 3 percent more than inflation. These increases have been necessary to match benefits available in the civilian sector and, to some extent, to correct inequities that existed earlier. In spite of these increases, we still have difficulty in attracting and keeping the skilled people we need. In order to maintain a reasonable balance in our Defense structure, the increasing costs of military personnel have forced reductions from the 1964 level in the strength of our Armed Forces by 630,000 active duty personnel to our current level of just over two million. At today's reduced personnel levels, combined civilian and military payroll and associated costs nevertheless constitute 52 percent of the Defense Budget, compared to 45 percent in 1964.

Part of the pattern of the changing social costs within Defense is due to the increase in retirement pay. In 1964 Defense paid $1.2 billion or 2.4 percent of its budget for retirement. In 1980 we will spend $11.5 billion or eight percent of the budget. These funds, although generally counted in Defense totals, provide no military capability. If retirement is excluded from Defense totals, Defense funds have shrunk seven percent in constant dollars since FY 1964.

The mounting costs of personnel and personnel-associated services have caused major shifts in Defense appropriations, reflecting the choices we have had to make among mission allocations since FY 1964. In constant dollars, funds:

For strategic forces have shrunk 53 percent reflecting reduced procurement, and the phasedown of bomber and air defense forces;

For intelligence and communications are down 19 percent;

For air and sealift are down 30 percent;

For all our general purpose forces are up only eight percent—over a period of 15 years in which manpower has consumed an increasing fraction of the budget.

The mounting costs of personnel and personnel-associated services have been a significant factor in the Department's efforts to substitute equipment for men, and technological sophistication for numbers. We have been able to reduce the size of our forces dramatically, while increasing our real military strength (though not nearly as much, in my judgment, as the Soviet Union has increased its strength, through

very large growth both in personnel and in after-inflation expenditures). Since 1964:

Our manpower has been reduced 24 percent.

Our total active Navy ships have been reduced 43 percent.

Our active Air Force aircraft inventories have shrunk 40 percent.

Our active Army divisions have remained constant in number at 16—but we have cut our reserve structure 72 percent—to achieve ready forces better suited to the threats we face.

Today we have better equipment—in general, still the finest in the world. We have achieved better combat readiness, training and support for all our forces. We have achieved a more efficient military establishment, and one with higher combat potential than ever before. But let there be no doubt—for its security, today the U.S. depends on fewer forces, fewer men, and fewer real resources than perhaps it has at any time since the beginning of World War II.

We are limited in the numerical reductions we can stand. We must face contingencies of a global nature, and a threat increasing both in sophistication and in size. Thus, there comes a point at which we can no longer reduce forces to save cost; I believe we have reached that point.

The second of the fundamental questions I have asked is: does the Defense budget now provide an adequate level of forces to meet our needs, and will it continue to do so in the future? The answer inevitably involves judgments—judgments about the policies of the United States, about the threats to our security, and about the role and adequacy of our military means. In trying to make such judgments it is of assistance to look where we and others have been to estimate where we are today, and where we may be going.

Today the United States is, by most measures, the strongest nation in the world. Beyond military power, the national security lies in economic strength, political and social cohesion, technology proficiency, international friendships, and national will. Only in military capability can the Soviet Union approach us. However, we now live in a world in which we are increasingly challenged. Thus, we are more than ever dependent on a sound economy at home and good international relations abroad—matters which are not by any means solely the products of our armed strength. Recent events have again shown we live neither in a benign world, nor one from which we are well insulated. In arriving at the FY 1980 Defense program we have had to balance between our needs for military strength, and the economic impacts that further expenditures would entail. I believe that balance is properly struck against the threats, both military and economic, now facing us.

One cause of our international concern is the Soviet Union's continued emphasis on expanding its military power. It is unclear why the Soviet Union has opted for military expansion. Perhaps the capability to use military threats, directly or by proxy, to substitute for their other failures to compete successfully in the international arena is important to them. I am convinced this is a major reason. Perhaps the Soviet military industrial complex is a sufficient political force to drive Soviet resource allocations. Perhaps this continuing emphasis results from Soviet fear—however misplaced—of NATO and the People's Republic of China.

Whatever the causes we know that Soviet military growth in the past two decades has been impressive indeed. Chart 4 shows both the growth in total Soviet spending and in investment in new military hardware when compared to the U.S. in constant dollars. Over a period from the early 1960's when U.S. defense spending has actually declined, Soviet expenditures have increased 75 percent or about 3 percent per year. There is some debate about the equivalent U.S. buying power of Soviet spending, but today Soviet defense budgets exceed ours by between 25 and 45 percent. If total spending of NATO and the Warsaw Pact are compared, there is today rough equivalence. But more critically, Soviet investment in new military hardware has increased twofold in the same period and is more than twice ours today.

This growth in Soviet military spending, especially the level of military investment, presents potentially grave dangers for us, particularly since the upward trend shows every sign of continuing. It is an effort that we must keep in perspective, not necessarily to imitate, but to prevent it from becoming a major Soviet advantage. Some points are clear:

We are dealing with long-term trends in total budgets and forces—not threats to one narrow region or in one type of force.

Soviet spending has shown no response to U.S. restraint—when we build they build; when we cut they build.

We are facing a challenge both to ourselves and to our allies.

The disparity of military forces that can result from disparate spending will be the accumulation of annual differences—each yearly imbalance increases the disparity, and in many measures of capability the disparity is cumulative.

In comparisons like this one we need to consider the contribution of our allies—contributions which make the balance more nearly even, though the trends remain adverse in that broader comparison as well. It is in this light that we have proposed to act in concert with the other members of NATO to increase our mutual real defense expenditures by roughly three percent annually. This mutual agreement is a way of assuring cooperative efforts in reversing an adverse trend. But we propose this budget because our national security requires the programs in it, not merely to reach some arbitrary figure.

I am pleased to say our partners have responded with action—the average real growth in non-U.S. NATO military spending was 2.9 percent in FY 1978–1979. And, in keeping with this pledge and our partners' actions, we are requesting both supplemental funds for 1979 and a three percent real growth for FY 1980 outlays.

The final question is whether the Defense budget provides a rational prioritization of competing defense needs. Our interest is to build the necessary military capability to meet our objectives. Our military problems, no matter what the challange, differ from those of the Soviet Union. Hence, our program at any given point in time should not mirror theirs.

Our strategic nuclear forces must meet a set of specific conditions—independent of whatever may be the needs of the Soviets. They must be able: to survive in adequate numbers and types after a well-executed surprise attack on them; to penetrate Soviet defenses and destroy a comprehensive set of targets in the USSR with whatever timing, and degree of deliberation and control, proves desirable; if necessary, inflict high level of damage on Soviet society—particularly those elements the Soviet leadership values—regardless of the measure the Soviets might take to limit the damage; and retain a reserve capability in the wake of a controlled exchange, if one occurs.

Although our current strategic forces meet these objectives, it is quite possible that by the mid-1980's the Soviets could, with a first strike, destroy most of our ICBMs and still have in reserve a large number of deliverable warheads. Although our increasing ICBM vulnerabilites will not be catastrophic per se, they will present an increasing problem of military asymmetry that will have major political overtones. Thus, I believe we must plan corrective measures now, in the modernizations that are included in our proposed program.

We provide with our theater nuclear forces a credible deterrent to limited nuclear attack. In addition, the Soviets must face the fact that we could commit these forces in case of a massive failure of our conventional defenses, even with the profound risks such escalation would involve. We are continuing our modernization of these forces in combination of our improvement of our general purpose capabilities.

One test, but only one, of the adequacy of our general purpose forces is that, with our allies, they can withstand a conventional Warsaw Pact assault on NATO Europe—both in the Center region and on the flanks. In addition, we are concerned about attacks by the Soviets or others in more remote regions—The Persian Gulf, the Mid-East, and Korea among the more sensitive. Further we must face the fact the war in NATO Europe—to the extent previous conflicts and current world-wide military deployments are any guide—is likely simultaneously to involve lesser military actions elsewhere. Thus, in planning our conventional forces we must consider the possible global nature of any major contingency.

The implication of these criteria is that our forces and plans must be—and are being—better integrated with those of our allies than they have been in the past. Alliance cooperation is central to our policy—and is being reflected in the standardization and interoperability of our equipment with that of our allies.

Today, the Soviets, in my opinion, cannot be confident of a rapid conventional victory in Europe. But NATO, in spite of its current strengths and increasing allied contributions, cannot have as much confidence in its non-nuclear deterrent as I consider prudent. Thus, we wish to continue our emphasis on the readiness, mobility and fighting power of our general purpose forces.

I am convinced our naval forces remain capable of maintaining the sea lines of communications to Europe, protecting our essential routes and supporting allied forces—whether in the Western Pacific or on the flanks of NATO. What is more, with our proposed program, our naval forces will be gaining capability in the next five years.

In making these assessments I do not wish to imply I am content with the current status of U.S. defenses. Any estimate of military balance involves both judgment and risk. Today, there are risks, tolerable perhaps, but not such that they will permit an increasing gap between U.S. and Soviet military expenditures. We are more ingenious than the Soviet Union—but not so much more that, without increased budgets, we can make up for the increasing disparities in our defense efforts.

The total FY 1980 Defense budget is tightly constrained even though it allows some real growth in buying power. New budget authority will allow us to make necessary improvements in our strategic programs, but will allow no real growth in general purpose force budgets.

While we intend to keep up our military guard in dealing with the Soviets, we also intend to find ways to limit the competition. Stimulating arms races serve neither nations' interests, but finding safe, equitable ways to reduce military competition is difficult and time-consuming. We are, however, making progress. We are nearing the completion of a SALT II agreement that will contribute to the security of the United States and its allies. In fact, no agreement failing that test should or would be signed by the United States. We want arms control, but must insist on arms control agreements that are verifiable and balanced.

I do not see any immediate prospect of ending the military competition between the Soviet Union and the United States. SALT

will not solve all our problems. Even with SALT, we will need to—and we will be permitted to—expand our strategic nuclear efforts. But SALT will mean greater stability and predictability in the strategic challenges we face.

In summary, we are faced with challenges including but not limited to those posed by the Soviet military machine. We must balance the use of our resources, for security, indeed, depends on more than our defense posture. Nevertheless, a strong defense is key to our security. It is a measure of the confusion that sometimes attends this issue that I feel obligated to repeat the obvious: without adequate military capability we cannot preserve our security. Today our defense is not so weak as some would have us believe, nor so strong as I would wish it to be. Real defense growth is a necessity. I believe the budget we propose will allow us to do those things that are necessary now, necessary to provide our fellow citizens safety from the range of military threats to our security, and balanced against the economic and social needs of our time.

(NOTE.—Charts are not reproducible in the RECORD.)

Mr. MOYNIHAN. I thank the Chair. I have completed my statement. Once again I would like to express my appreciation to the majority leader.

The ACTING PRESIDENT pro tempore. Is there further morning business? The Senator from South Dakota.

MINORITIES IN IRAN

Mr. PRESSLER. Mr. President, I would like very briefly to say I am deeply concerned with the situation in Iran as it affects minorities. Tomorrow I shall have a more detailed statement regarding those minorities. But there are at least between 70,000 and 80,000 persons of the Jewish faith, plus other minorities, who may be very vulnerable at this point. I believe it appropriate that our Government should make very clear its concern for the protection of the lives as well as the ability to transit of those minorities.

I yield back the remainder of my time. I shall have a more detailed statement tomorrow concerning the number and location of those minorities.

LITHUANIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today we in the Senate pause in our deliberations on the legislation before us to reflect on the tragic events of June 1940 when the Baltic States were occupied by Soviet troops and—within 40 days—forcibly incorporated into the Soviet Union.

The national sovereignties of Lithuania, Latvia, and Estonia were extinguished as a bright flame snuffed out by a chilling wind. Foreign domination was firmly implanted in these nations which had been free since the First World War. The new regimes extolled atheism, attacked religion, collectivized agriculture, nationalized private property, deported large numbers of the people, and brought in non-Baltic colonizers.

As we now commemorate Lithuanian Independence Day, it seems impossible that the domination of the Soviet Union and their puppets continues. Yet it does continue. The Lithuanians, Latvians, and Estonians have not known liberty for all these years. Those who speak out for freedom are spirited away. For most of the Baltic peoples, freedom is a subject for their prayers, not a possibility for their lives.

Nevertheless, sustained by God, they have maintained their national identities, their national cultures, their religious beliefs and their self-respect. Their indomitable will to exist is exemplified in the valor of Viktoras Petkus who languishes in a Soviet prison, and on whose behalf many of us continue to bring pressure on the Soviet authorities.

I am persuaded that those of us who live in freedom have a responsibility to speak out for the freedom of others. The deprivation of freedom is felt by hundreds of millions of our brothers and sisters in other lands, but nowhere more tragically than in the Baltic States. In Lithuania, for example, a people who had a highly developed culture and society are in effect imprisoned by forces beyond their control. This is a people who 400 years ago established a university in Vilnius. It is our responsibility to support their aspiration for a return to freedom, not only morally but also politically, and we can do that by making it clear to the Soviet authorities on every occasion that we deeply care about the plight of the people of Lithuania.

I am encouraged that so many of my colleagues share this view and let the representatives of the Soviet Government know that we have not forgotten Lithuania, that we do care, that we will never forget.

It is easier for those of us who have large Lithuanian constituencies to keep the burdens of the Lithuanian people firmly in mind, because we have many friends in these communities and we share their commitment to freedom. But today I address myself to those of my colleagues who do not have Lithuanian constituencies and therefore may not know at first hand the anxieties of Lithuanian Americans about the situation in their native country. I would hope that all my colleagues would interest themselves in the plight of the Baltic peoples and would add their voices to the appeals for Baltic freedom.

We are blessed in this country with freedom, with economic strength, with the basic rights guaranteed by our Constitution, so it is hard for Americans to understand the living hell to which peoples are condemned when they are denied these blessings. But the responsibility remains for those who live in freedom to pray and act and speak for those who have no freedom.

It is in this spirit that I join today with Lithuanian Americans and the people of Lithuania in recalling the independence of the Lithuanian nation so proudly proclaimed at the end of World War I and in committing ourselves again to the cause of freedom.

Sveiki Lietuviai.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is now closed.

SENATE RESOLUTION 61—PROPOSED AMENDMENT OF STANDING RULES OF THE SENATE

The ACTING PRESIDENT pro tempore. The pending question is on Senate Resolution 61, as amended, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 61) proposing to amend the standing rules of the Senate.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and I will not press the request until Senator STEVENS is on the floor—that I may be able to strike from my resolution, Senate Resolution 61, the words beginning on line 11, page 3, and going through line 14 on page 3, those words reading as follows:

A Senator may also yield back all or part of his one hour, in which event, the time for consideration of the measure, motion, or matter shall be reduced by the amount of time yielded back.

Mr. President, this is verbiage that I put into the resolution when we were considering it. I have thought about this language over the prolonged holiday—prolonged because of the extraordinarily inclement weather—and I believe, in fairness to Senators who would not have yielded back their hour, that Senators who yield back all or part of an hour should not, by virtue of that action, be able automatically to reduce the time of other Senators.

In considering my resolution, one must keep in mind that it establishes a 100-hour cap over all of the debate and actions on or relating to a measure or matter on which cloture has been invoked. This means that time for rollcall votes and time for quorum calls all comes out of the cap. If, upon cloture having been invoked, 30 Senators were to stand and yield back their time, this would mean the overall cap is reduced to 70 hours, which would further mean that for those remaining 70 Senators, whose hours, with even the 100-hour cap, would be impinged upon by every quorum call and rollcall vote, that 100 hours which originally was going to be reduced by virtue of rollcall votes and quorum calls would automatically be reduced by almost one-third, by virtue of the yielding back of time on the part of Senators immediately upon the invoking of cloture.

So this situation would, I think, be unfair to the Senators who did not yield back their time. Therefore, I would ask unanimous consent that I be permitted to strike that sentence in the interests of protecting Senators who may wish to offer legitimate amendments and motions and make statements during debate.

I do not think it is necessary to reduce the cap by virtue of Senators yielding back their time. If they want to yield

back their time, they have that privilege, under the present rule, simply by saying nothing. By doing that, when no Senators rises to speak or to seek recognition, under the present rule, once cloture is invoked, the Chair puts the question, so any time that is not used is automatically disposed of once the Chair puts the question.

Therefore, now that the distinguished acting Republican leader is present, I do present my request and hope he will consent to it.

Mr. STEVENS. Mr. President, does the Senator ask unanimous consent to do this?

Mr. ROBERT C. BYRD. Yes; I ask unanimous consent to strike from my resolution the words, beginning on line 11 of page 3, "A Senator," and continuing to the end of the sentence on line 14, thus striking the entire sentence.

Mr. STEVENS. Reserving the right to object, and I shall not object, I would like to ask the distinguished majority leader if it would be possible to treat the language that is before us now in the reprinted version of Senate Resolution 61, the version printed on February 9, as original text for the purpose of an amendment.

I do not have any objection, and I am sure none of us do, to the Senator's deleting that portion of the current text of Senate Resolution 61. But I would hope that he would agree that we can deal with this text of Senate Resolution 61 and that we do not get into any problems about amendments. One of my amendments, as a matter of fact, deals with the question of yielding time. I would like to be able to offer it and discuss it with the Senator, the distinguished majority leader. Hopefully we may come to an agreement before the day is out, or tomorrow at least, in terms of a version of Senate Resolution 61, in which we could join with the leader.

Mr. ROBERT C. BYRD. Mr. President, I would not want at this moment to agree that all of the amendments that have been agreed to thus far be considered as original text for the purpose of further amendment. But may I say to the distinguished Senator that we will have no problem in that regard, I believe, because we may be able to get a general agreement, and I would like to be able to get a general agreement, in which case that would be part of the argeement, or we could proceed on the basis of case-by-case. If the Senator wants a certain area of my resolution which I have already amended to be open for amendment by him, I am sure there would be no problem in that regard.

The ACTING PRESIDENT pro tempore. Is there further objection?

Mr. STEVENS. I do not object.

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

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, I would hope now that Senators will come to the floor to offer amendments. My resolution is open to amendment. I would welcome Senators offering any amendments that they may have.

The ACTING PRESIDENT pro tempore. Are there any other amendments to Senate Resolution 61?

UP AMENDMENT NO. 13

(Purpose: To dispense with the reading of the Journal after cloture has been invoked)

Mr. STEVENS. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

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

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 13.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

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

The amendment is as follows:

At the end of the resolution add the following:

Paragraph 1 of rule III of the Standing Rules of the Senate is amended—

(1) by inserting "(a)" before "The" in the first sentence;

(2) by striking "The" in the second sentence and inserting in lieu thereof: "Except as provided in subparagraph (b), the"; and

(3) by adding at the end thereof, the following new subparagraph:

"(b) Whenever the Senate is proceeding under paragraph 2, Rule XXII, the reading of the Journal shall be dispensed with."

Mr. STEVENS. Mr. President, it would be my intention here this afternoon, with the courtesy of my good friend from West Virginia, to see how close we might come in bringing together our two proposals by putting into Senate Resolution 61 some of the key provisions in the substitute which I offered on behalf of the committee that was appointed by our minority leader. I do this with the nope that maybe we can, as I said before this session commenced, get to the point where we can join together with the majority leader and support the passage of Senate Resolution 61 in an amended version today or maybe tomorrow.

This amendment is a very simple amendment. It deals with one of the problems we have discussed in our meetings with the majority leader and with the ad hoc committee on the majority side, which was chaired by the distinguished Senator from Wisconsin (Mr. NELSON).

What it would do is simply dispense with the reading of the Journal whenever we are in a real rule XXII postcloture period. That is a simple matter. And it deals with one of the vexatious problems which can come up in such a period. It does not change the rule with regard to the reading of the Journal.

I know that the Senator from West Virginia can make this an immaterial situation by virtue of having recessed rather than adjourned during a period that is in a postcloture mode.

The Journal would not necessarily have to be read, but as a technical amendment, I hope the Senator will consider it. I offer it for the purpose of assuring us that we start down the road toward changing the provisions of Senate Resolution 61 as they are now before us in the February 9 version.

I do not know that any controversy exists over it. I do not know of anyone on our side who wishes to address the issue.

But it is one of the provisions that is in the substitute that I have offered on behalf of our committee that is not in the current text of Senate Resolution 61.

I might add, a similar provision was in one of the earlier versions of Senate Resolution 61.

Mr. McCLURE. Will the Senator yield?

Mr. STEVENS. I am happy to yield to the Senator from Idaho.

Mr. McCLURE. I thank my colleague.

Mr. President, this amendment becomes of some importance if, as a matter of fact, there is an accommodation arrived at at all with respect to the 100-hour cap, or the availability of time for each individual Member, because any one Member might be able to use up a substantial portion of the 100 hours doing something which most of us would, under those circumstances, regard as being a useless thing to do, reading the Journal.

I think most of us have come to the conclusion that if there is to be any kind of a protection for each individual Member with respect to the use of his hour during the postcloture 100-hour period, that we have to limit things such as the reading of the Journal.

I would hope that the majority leader would agree with this procedural change in that period of time in the effort to protect the right of each individual Member to offer substantive amendments, to debate those amendments, to get rollcall votes on those amendments if he desires, and to make certain that 100 hours is not used up by someone else in an effort to prevent those amendments from being called up.

I think it is a useful amendment. It may not be the most important single one, but it certainly is a constructive step toward making sure that the 100 hours is as available to the Members as we can make it.

Mr. STEVENS. I thank the Senator from Idaho.

Mr. President, I would inquire of the distinguished majority leader what his feelings might be on this amendment. It would be my hope that an amendment of this type would be acceptable to him.

Mr. ROBERT C. BYRD. Mr. President, as the distinguished acting Republican leader has accurately predicted, I really do not see any benefit to be gained from this amendment. If the Senate recesses, as he has pointed out, there is no necessity for reading the Journal, and during the debate on a matter, once cloture has been invoked, the Senate can simply recess and go over from day to day and the reading of the Journal is automatically dispensed with.

I would like to see the reading of the Journal dispensed with on nondebatable motions at any time. That, I think, would be a distinct improvement over the present rules.

However, I am certainly not going to reject this amendment out of hand. It is a sincere attempt on the part of the acting Republican leader to bring about some improvement in the postcloture rule.

I wonder if he would be willing to

accept an amendment to his amendment which would read as follows:

Strike the period and the quotation marks and insert in lieu thereof a comma, and shall be considered approved to date."

So that what this does then, indeed, we are not only delaying the dispensing of the reading of the Journal, but we are approving automatically during that period, otherwise the Journal merely builds up over that period and, if the debate following cloture should go for several days, the Journal would have built up to the point that an objection to the dispensing of the reading thereof could result in the Senate's having to spend an additional day simply reading the Journal that had been building up for a period of 6 or 8 or 10 days.

So, if the Senator would be willing to let the Journal during that period be automatically approved, I think it would be a good amendment.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Now, if the Senator's amendment, or suggested amendment to my amendment, were agreed to, it would be my understanding that if a Member found an item in the Journal that he wished to have changed or corrected, that that correction could still be made on the basis of a motion, notwithstanding this provision that the Senator has suggested.

I have seen, rarely, but I have seen Members raise a question as to the accuracy of the Journal and I would not like to foreclose a Member's right to move to amend in order to have the Journal appear in a correct fashion.

Now, if the Senator's suggested amendment to my amendment were adopted, it would appear that it could be interpreted as foreclosing a Member's right to amend the Journal if it is considered to be approved without any further proceedings possible.

Now, would the Senator's interpretation be that a Senator could still seek to have the Journal amended, or in a postcloture period he would have to take his time, in a time cap, so there would be no potential for any dilatory tactic? For the purpose of an honest attempt to correct the Journal, I think we should not foreclose that.

Mr. ROBERT C. BYRD. I agree with the Senator.

The way I read rule III, it would seem to me that at any time a legitimate error were to be found in the Journal, a motion would be in order to amend or correct that, because it reads as follows: "and when."

It does not say that the motion has to be made on the following new legislative day. It reads as follows: "and when any motion shall be made to amend or correct the same, it shall be deemed a privileged question, and proceeded with until disposed of."

So the Journal could be considered as approved as read, the Journal of the action on the measure on which cloture had been invoked, or 1 month thereafter, if an error were to be found in the Journal, or 1 year thereafter if an error were to be found in the Journal, and it could not be cured by unanimous consent under rule III, a motion would be in order and it would be a privileged motion because it says "when"—w-h-e-n, when.

When any motion shall be made to amend or correct the same, it shall be deemed a privileged question, and proceeded with until disposed of.

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

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I should like to inquire of the Members on our side of the aisle who participated in the committee deliberations we had as to whether they see any objection.

I believe that when the Record is clear as to the intent of rule III, as it has just been read by the distinguished majority leader, and the statements we have made here. This amendment does not foreclose a motion to amend or correct the Journal. It would be a privileged motion when and if presented. Our intent, in fact, was to consider the Journal for the preceding day approved to date, unless such motion to amend or correct the Journal was offered then or any other time.

I think that is an amendment we can accept, and we can modify my amendment, if my colleagues agree.

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

Mr. STEVENS. I yield.

Mr. HATFIELD. Mr. President, it is my observation that the majority leader's amendment to the amendment of the Senator from Alaska strengthens the purpose of the amendment, in the first instance, of trying not only to limit the reading of the Journal of that particular time but also to declare it as having been approved, the same action. So not only would it be acceptable, but also, I think it strengthens the purpose of the purpose of the amendment.

Mr. STEVENS. I thank the Senator from Oregon.

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

Mr. STEVENS. I yield.

Mr. McCLURE. I thank the Senator from Alaska for having asked the question which crossed my mind, with respect to whether or not the Journal could be corrected. I think that leaves us with one problem which this will not solve, and it is this: If a Member desires to seek to change a correction in the Journal within the 100-hour cap, as to whether or not that time is charged against the 100-hour cap.

However, I think that is a separate question and can be dealt with separately.

With the kind of history that has been made here with respect to the meaning of the words being added to the amendment by the Senator from West Virginia, I have no objection to it.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the distinguished Senator from Alaska adding his amendment as amended by my amendment.

Mr. STEVENS. Mr. President, I ask to modify my amendment by adding at the end of the amendment suggested by the distinguished majority leader, which strikes the last portion of the quotation marks and the period and inserts a comma and adds to my amendment the words "and shall be considered approved to date," with a period and the end of the quotation marks.

I send the amendment to the desk in written form.

I move the adoption of my amendment.

The PRESIDING OFFICER (Mr. BOREN). The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 14

(Purpose: To dispense with the reading of amendments that have been printed and available 24 hours prior to the time the amendment is called up)

Mr. STEVENS. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 14:

At the end of the Resolution add the following:

"After cloture is invoked, the reading of all amendments, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.".

Mr. STEVENS. Mr. President, this amendment also is designed to try to get to the problem of the delay that can be caused under a cap by a Senator offering an amendment, including at times long amendments that are in printed form, sometimes the House amendments themselves, which have been deleted by action in a Senate committee on the floor, which the Member wishes to offer in a postcloture period. If he asked to have the reading of the amendment dispensed with, another Member could refuse to dispense with the reading of the amendment and could use up some of the time under the cap, which we think would be most disadvantageous to those people who are trying to use their time for the purpose of presenting substantive amendments.

In order to protect all Members, the intent of this amendment is that the amendment would have to be identified and available in printed form at the desks of the Members for not less than 24 hours prior to its being offered. It was the feeling of our committee that this would be an amendment that necessarily would protect those who were seeking to offer substantive amendments and at the same time would protect the cap that the majority leader seeks to place on the post-cloture procedure.

I believe it is a matter of fairness to require that this be printed, if we are going to offer a procedure whereby the reading of any amendment can be dispensed with.

I do not know whether any members of our ad hoc committee wish to address the matter. I have discussed this matter

informally, as the distinguished majority leader will recall, at some of our meetings prior to the recess. It is something about which we feel very strongly: that the offering of an amendment should not, in and of itself, use up so much time simply because of the necessity to read the amendment, when it is a very long one.

I hope the distinguished majority leader will find this amendment acceptable, also.

I am happy to yield to the Senator from Idaho.

Mr. McCLURE. I thank my colleague for yielding.

It is entirely possible that a very lengthy amendment could be called up by someone who is not opposed to the bill but is opposed to the other amendments. There is also the possibility of having one called up that would use up a considerable amount of his colleagues' time, thereby limiting the opportunity to offer substantive amendments and to debate those substantive amendments.

I think the rationale for this amendment is similar to that of the last one: that if we are going to have a 100-hour cap and it is going to be strict, it should be maintained as closely as we can to the availability of that time for the Members to offer, to debate, and to vote upon substantive amendments which they may choose.

I hope this amendment will be agreed to.

Mr. STEVENS. I thank the Senator from Idaho.

I say to the Senator from West Virginia again that, as the Senator from Idaho has just mentioned, the purpose of this amendment is to assure that the time under the cap is meaningful in the sense of being available for discussion and debate, rather than being placed in the position of being used up by the reading of printed amendments.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I think the purpose of this amendment is a good one. I would merely offer one or two modifications for the purpose of clarification.

The amendment reads as follows:

After cloture is invoked, the reading of all amendments, including House amendments, shall be dispensed with when the proposed amendment has been identified. . .

I wonder whether the distinguished Senator would change the word "all" in the first line to read "any," so that it would read as follows:

After cloture is invoked, the reading of any amendments, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed—

Right there, if it is understood that "printed form" means typed or Xeroxed, if Xeroxed form or typed form conforms with the intent of the word "printed," I have no objection to the word "printed." Otherwise, it should say "typed or Xeroxed."

I think that the general acceptance of the term "printed" around here is that it does include Xeroxed and typewritten material. I ask the Chair if that is correct.

Mr. STEVENS. That is certainly the intent of the sponsor of the amendment, I say to my good friend from West Virginia.

We know that the Printing Office at times is delayed. As a matter of fact, the Senator from West Virginia has in his hands a Xeroxed copy because of the situation we are in right now, because of the storm and what not.

I otherwise would have offered these and they would be on the desk today.

It is entirely within the intent of this amendment that it be in printed form and at the desk for 24 hours, and I am sure that the desk would have a way of logging in such an amendment when it is presented in the post-cloture period.

The PRESIDING OFFICER. The Chair will rule that if it is intended to include typewritten and Xerox materials, as has been indicated, they would be so included in the term "printed."

Mr. ROBERT C. BYRD. Very well. That is satisfactory with me, and we have the legislative history established.

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

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I might say it is not intended to have Xerox copies of handwritten pieces of paper that are patched together. We are talking about a typewritten or Xerox copy of a typewritten amendment that are in readable form for all to know what it is and what its purpose is and a copy of it having been placed at the desk to establish when it was available to all Members.

Mr. ROBERT C. BYRD. Yes. I would agree that we should not accept Xerox handwritten amendments in this context.

Mr. STEVENS. I certainly accept the Senator's change.

UP AMENDMENT NO. 15

(Modification of UP Amendment No. 14)

Mr. President, I send the modification to the desk and the Senator from North Carolina and his English teacher would be happy with that correction. I just modify my amendment by changing the word "all" to "any."

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk proceeded to read the modification.

Mr. ROBERT C. BYRD. Singular.

The assistant legislative clerk read the modification as follows:

At the end of the resolution add the following:

"After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.".

Mr. STEVENS. Mr. President, I move the adoption of my amendment.

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

The amendment was agreed to.

The amendment (UP amendment No. 15) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 16

(Purpose: To allow amendments in the second degree to be offered after cloture has been invoked)

Mr. STEVENS. Mr. President, I have another amendment which I send 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 Alaska (Mr. STEVENS) proposes unprinted amendment numbered 16.

At the end of the resolution add the following:

"New amendments in the second degree can be offered after cloture has been invoked if they are germane to the amendment in the first degree to which offered and have been printed and available at each Member's desk for at least twenty-four hours. Amendments which are otherwise in order may amend the measure or matter in more than one place, if they involve only one substantive issue."

Mr. STEVENS. Mr. President, we may be getting into an area of some controversy here.

I hope that in the spirit that we are proceeding my good friend will again try to see if we can work something out.

The times that I have seen in my 10 years in the Senate the postcloture period become most intense, has been when we have gotten into the position that it was impossible to get a change in a bill that would meet the consensus of the Senate, that accommodated those who had previously sought to delay the bill, and remain within the scope of the willingness of those who were the majority behind the bill trying. In the sense that amendments have been at the desk prior to the vote on cloture, we get locked into those amendments and we have not been able to go to amendments in the second degree.

I think one of the reasons for that in the original rule XXII was the problem of time because obviously if you could offer an amendment to amendments and amendments to amendments and they were not at the desk, this procedure could have gone on ad infinitum.

We are now looking toward a new era of a cap of 100 hours, and in that period it has been our contention that one of the best ways to get out of the tension that comes in a postcloture debate would be to permit amendments in the second degree so long as they are germane to the amendment in the first degree and have been printed and available for 24 hours.

This amendment deals with another concept, and that is the problem of the amendment amending a measure in more than one place.

In connection with the gas bill, for instance, there was a date. It appeared in many places throughout the bill. In order to get to that date it was necessary, for those who sought to change it, to offer as many as 10 or 15 amendments to deal with one simple issue, and that would be the date at which the change proposed by the gas bill would have become effective.

The amendment that I have offered would permit amendments in the first or second degree to touch the measure in more than one place so long as it involved only one substantive issue such as the changing of a date, the changing of a name, for instance, one single substantive issue that we would not face the question of the rules as far as amending a measure or matter in more than one place.

I do understand the Senator from West Virginia has expressed some question about the new amendments in the second degree. It is if I understand the distinguished majority leader that this would be a substantial variation from the present procedure. Under the present procedure of rule XXII, the amendments must be at the desk before cloture is voted. We are not changing that.

An amendment in the first degree would still have to be there at the desk. This would say that an amendment in the second degree could be offered even though it was not at the desk so long as it was germane to the amendment in the first degree and so long as it had been available for 24 hours, consistent with what we have just done with this prior amendment.

I might say we are not just talking solely about amendments in the second degree. I would be talking also about amendments in the nature of a total substitute to an amendment which was at the desk so long as it was in order otherwise under the procedures that we follow here in the Senate.

I am sure the Senator from West Virginia will recall those times when his predecessor and the distinguished Senator from Pennsylvania, who was our minority leader, on at least two occasions that I recall went though the procedure of sending a bill that was under cloture back to the committee with orders to report it back immediately in a changed version in order that we might finally get the votes to terminate the whole procedure.

It took us several days to go through that process, in order to get that concensus that would allow that procedure to take place; whereas, if this provision had been in the rules it could have been brought about by the simple mechanism of offering the amendment under the process that we suggest here.

Again we are dealing with a cap. As long as we are dealing with a time cap amendments in the second degree cannot be dilatory. It can only be a substantive attempt to resolve the dispute that has led to the cloture period.

I am hopeful that the Senator will again look at this amendment, which really has two principal objectives, and that we can work something out with regard to this amendment also.

Mr. ROBERT C. BYRD. Mr. President, I applaud the spirit and the intent behind the offering of the amendment.

Actually there are two amendments here, and both of them would change the cloture rule which has been in existence now for 62 years.

Under the cloture rule which was first established in 1917 and at all times since that cloture rule was established, no amendments in the second degree have been allowed once cloture has been invoked if they were not first offered and originally read before cloture was invoked, and under the present rule unless they are offered in writing at the desk before the vote is announced on the invoking of cloture.

So this is something entirely new.

Senators would be allowed for the first time, since the cloture rule was established in this body, to offer amendments in the second degree as long as those amendments were germane to the amendment in the first degree, even though such second degree amendments had not conformed with the letter and intent of the rule prior to the invoking of cloture.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I hope the distinguished Senator from West Virginia will look at the scope of the problems involved.

I am just sitting here thinking about one of the amendments that really was vexatious as far as my State was concerned in a cloture period where a Member had filed prior to the vote on cloture—that I supported—an amendment of which I had no knowledge. It was at the desk and I did not even know about it until it was here on my desk about 2 days after cloture was voted.

I suddenly discovered an amendment that would have seriously disturbed the pricing picture for natural gas coming out of my State.

It was not possible to offer an amendment to that amendment, and yet it appeared that the amendment was going to get support.

In any normal precloture period there would have been no problem of offering an amendment in the second degree in order to clarify the intent of the amendment, and protect my State which is unique in terms of location so far as gas supplies are concerned, and everyone, including the sponsor of the amendment, indicated that my position was correct so far as Alaska was concerned. Not knowing of this amendment I had no way of offering an alternative amendment prior to cloture. If I had known that other amendment was there and uncorrected, I would not have voted for cloture.

The real problem we have is the inability to protect ourselves in a time period where there is a cap from amendments that are at the desk of which we have no knowledge. When we are really trying to wind this thing down as far as the debate on a controversial matter is concerned.

I think this is a substantive improvement to this procedure. As long as we are proceeding under a cap it cannot be dilatory. It can only present the Senate with a substantive issue designed to protect an individual's State or region of the country from a particular approach that might otherwise be completely unacceptable to that region or State.

I think the first part of this amendment I have offered is the most important. Again I say that one of the reasons why I think the original rule was as it has been, that we would only have amendments in the first degree, is that it was intended that the postcloture period not provide for additional dilatory tactics.

This would not be a dilatory tactic because it is still under the cap. At least as far as the first part of the amendment is concerned I hope the Senator will give it serious consideration because I think if we cannot get it this way we are going to have to find some other way.

You will recall that one prior version of the suggested substitute that we have discussed in your office as a result of the negotiations in our committee, would have required the amendments to be at the desk 2 days before or the evening of the day of the filing of the cloture motion so that we could then have a chance to look at them and have amendments to the amendments at the desk prior to voting cloture.

You could accomplish it in the same way there. But as long as we are going to have a procedure continue that the amendment need only be at the desk 1 second before the rollcall starts on the cloture motion, there is no way for an individual Member to know what is there until it is called up or until it is printed and at the desk in the postcloture period.

I agree this amendment is a radical departure from the procedures of rule XXII, but it is timely. It is time that we really thought about the necessity to have the ability to protect those whom we were sent here to protect, even though we might be in a postcloture time frame.

I hope the Senate will give that problem serious consideration in view of some of the matters that we ran into last year in that long postcloture debate period on the gas bill.

Mr. ROBERT C. BYRD. Mr. President, I had not completed my dissertation on this amendment. I had prefaced that statement by saying that I thought the spirit and the intent of the amendment were laudable.

Let me continue now with stating what I find to be wrong with the amendment. Perhaps something can be worked out. The problem really arises, the problem that the Senator has just addressed himself to arises, from the amendment to the rules that was adopted on April 6, 1976. That change that was made at that time—previous to that date only those amendments could be called up after cloture was invoked that were germane or which had been read prior to the invoking of cloture.

In 1976 an amendment was adopted which deleted the reference to reading the amendment, which was for the purpose of alerting all Senators as to what amendments were going to be called up or going to be eligible to be called up after cloture was invoked. But the Senate did away with the requirement for the reading of the amendment and merely required that amendments be submitted in writing to the Journal clerk prior to the end of the vote, which means a Member can carry 100 amendments up there. If he has a large briefcase he can carry 1,000 or if he has 2 briefcases he can carry 2,000 up there at the time that vote is going on.

I daresay that the Members of the Senate do not have any knowledge of the substance of those amendments. They

have no opportunity to prepare amendments in the second degree, and they are caught with a bagful of amendments at the desk of which they had no knowledge, no previous notice whatsoever, and only the Member who lugged them up to the desk in the two briefcases knows what is in the amendments.

So I, for one, feel that probably was not a good amendment to the rules. But that is where the problem has arisen, the problem to which the distinguished Senator from Alaska has addressed himself.

What do I find wrong with the amendment he has just offered?

"New amendments in the second degree can be offered after cloture has been invoked if they are germane to the amendment in the first degree to which offered and have been printed and available at each Member's desk for at least twenty-four hours.

For the first time in the history of the cloture rule amendments in the second degree will be permitted under the amendment that is now pending, once cloture is invoked, the only requirement being, in addition to—well, the only requirement being that they be germane to the amendment in the first degree which, under the present rule, has to be germane.

It seems to me this would punish Senators who prepare and who file first degree amendments before cloture is invoked. They do not sit on their rights, they prepare their amendments before cloture is invoked. The objective of cloture, of course, is to bring the consideration of the matter to a close.

The purpose of cloture is not to open the bill up to the amending process and, generally speaking, the amending process should have advanced to a considerable degree or even be ended or be well under control when the Senate resorts to invoking cloture, because 2 days pass before the vote on cloture occurs.

So it seems to me those Senators who have laboriously prepared their amendments in the first degree are being punished, while those who want to offer amendments in the second degree are being rewarded. They have not filed any amendment at the desk before cloture. They can simply sit back and draft their amendments as second-degree amendments to first-degree amendments once the first-degree amendments are called up.

That would be one of the problems I would have. Another problem would be as to determining whether or not a Senator has an absolute right to offer amendments in the second degree.

What sort of priority does a Member have to offer amendments in the second degree? If there is an amendment pending in the first degree, can a Senator who wishes to offer an amendment in the second degree demand that he has an absolute right to offer that amendment, and consequently he has an absolute right to hold up the Senate for 24 hours before it can act on the amendment in the first degree? Or does it mean that if he does not have his amendment then ready to call up, the Senate can proceed with its consideration of the amendment in the first degree?

That is merely a rhetorical question. In any event, if he does not have an automatic right to call up an amendment in the second degree, it is perfectly within his powers and the powers of other Senators alined with him to delay the Senate's action on amendments in the first degree for 24 hours until the amendment in the second degree is available and printed.

Moreover, once the amendment in the second degree has been disposed of, it would be possible, then, for another Senator to stand and say, "I have an amendment in the second degree." Does he have an absolute right, under this amendment, to do that? If he does, then the Senate has to wait 24 hours; it has to set the amendment in the first degree aside until that amendment in the second degree can be printed and is available.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. ROBERT C. BYRD. Not at this moment. I will yield to the Senator in just a moment. I was trying to think of a third problem that I had.

It would be possible, Mr. President, for a Senator to offer an absolute substitute, a complete substitute, and if that amendment is in the second degree, he can haul in a complete substitute that never was in writing or contemplated when cloture was invoked; and Senators who voted for cloture might not have done so had they seen that substitute. But, lo and behold, Senator X calls up a substitute that was at the desk, that did qualify for consideration in every way, and Senator Y offers a substitute to that as an amendment in the first degree, but then Senator Z, under this proposal, because the second substitute was an amendment in the first degree, along comes Senator Z—Senator ZORINSKY—and calls up a complete new substitute that only he and God knew about, and offers it as an amendment in the second degree. Nobody ever saw it, and he did not even need God's approval for it; he just simply called it up, and under this rule he could offer that amendment. He played blindman's buff; everybody in the Senate was blind to the amendment except Senator ZORINSKY, a complete new substitute in the second degree.

Under this proposal, are we going to allow him to do that to us? Is the Senate going to permit that?

As I say, the Senator from Alaska has put his finger here on a thing that from time to time needs some remedy; but it would seem to me that this may not be the best way to go about it. I do not denigrate his intent and spirit, but I do not really believe he intends to open this rule up to the kind of mischief that might follow, such as I have just envisioned.

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

Mr. ROBERT C. BYRD. Yes, I yield at this point.

Mr. STEVENS. I am sure my good friends realize that I am not suggesting that we would punish those who have been diligent. The difficulty is that unless we have some way to have an amendment to an amendment, we who come from small States and distant areas, I think, are going to get to the point where we just cannot vote for cloture, ever. After what happened to me last year, I said that, as a matter of fact, from this floor: That I thought probably the day would come that I would not ever vote for cloture unless we got some of these things changed, because of what could happen in terms of an amendment that was entirely well designed, but the person who designed it had no knowledge whatsoever of circumstances in my State that needed protection in order to assure that we would not be emasculated by a national concern. I might add that when it was called to the attention of those involved with the amendment, they readily admitted they would have been willing to change it, but they were unable to, that because of the terms of the cloture rule it was not possible to change the amendment by agreement.

Somehow, we have to get to the point where we can protect our interests and still subscribe to the concept of terminating debate by the cloture process.

I suggest to the Senator from West Virginia that his first element did not seem to be of much substance, because a Senator would not even be able to offer an amendment unless it had been printed for 24 hours.

It would be possible, of course, through the cooperation of other Senators, to use the time and to go through a 24-hour period. If it was that important and a Member could get 23 other Senators to cooperate with him to use the time, admittedly still under a cap, in order to get that protection, I think that ought to be achievable.

I admit that the Senator's third objection is a rational one—not that the others were irrational, you understand—but that one bothers me. It was our intention to have a perfecting amendment to an amendment offered in the nature of an amendment in the second degree, but not to permit the offering of an amendment in the second degree as a complete substitute for the whole bill. I can see that the Senator has a legitimate worry there, that we might suddenly find Pandora's box opened by an amendment in the second degree in the postcloture situation.

I think we have to get at this problem from the matter of scope; to provide that the amendment in the second degree could not exceed the scope of the amendment which it seeks to amend.

Mr. ROBERT C. BYRD. Mr. President, the problem there is, who would bell the cat? Who, in that situation, would determine the scope?

May I say to my friend, I think we could simply amend this rule back to where it was before 1976 and require the reading of amendments.

The problem that arose in that case was we had sort of a habit of coming in here just before the cloture vote and asking unanimous consent that all amendments then at the desk be considered as having been read. We abused that. On this one occasion I did not make that request. Lo and behold, we were in cloture, the request had not been made that all amendments at the time meet the reading of the requirement, and Mr. Brooke, if I remember, was not allowed to call up his amendment.

So Mr. KENNEDY suggested the change

that so long as amendments were in writing at the desk prior to cloture they be considered as having been proper. His intention was good. It was meant to overcome and cure the evil which had arisen from the fact that Mr. Brooke was not allowed to call up his amendment.

But the fault there was we had abused the rule so many times asking unanimous consent that all amendments at the desk be considered as having been read and on this occasion nobody asked for that consent. Somehow or other I got blamed for it because I was majority whip at the time and I was usually the one who stood up and made the request. But I was under no obligation to make that request. The majority whip was not under any obligation to make that request. My recollection of the old maxim in equity is that one must not sit on his rights. Simply because the majority whip had not asked unanimous consent in that instance I got the blame because no one else did ask.

Somehow or other I was supposed to be the fellow who looked after all the gates and padlocked them or saw to it that all the shadows were lighted and everything. In that instance, however, I did not ask and Mr. Brooke was put into the position of not being able to call up his amendment. That is what happened.

If those amendments still required reading, it would only take one objection to any request that amendments at the desk meet the reading requirement. Then all Senators are on notice as to what the first degree amendments are.

What I am saying to my friend is perhaps we can find some remedy to this if we can think about it a little bit. I believe the way this amendment is written, however, would create probably more problems than he foresees.

I want to address myself to the other part of the amendment. Before that, I will yield to the Senator from Maryland.

Mr. SARBANES. I wanted to say that I think this approach might get to the problem the Senator from Alaska seeks.

I have sympathy with the argument that if an amendment is at the desk we do not know what the amendment is. You have no way of finding out. It catches you by surprise and you are then in a postcloture period and cannot do anything about it.

It seems to me the better way to address that problem is to go to the precloture period and try to work something out in that period so that once you vote cloture you are voting it on the basis of the measure before you and the amendments that are pending to that measure. In effect, Members know what the situation is and potentially what the situation can be on the basis of the pending amendments. Otherwise, diligent people prepare their amendments, put them at the desk, and get them in at the appropriate time. Someone can come along who did not pay any attention at all and devise his second-degree amendment to a first-degree amendment that someone has worked out and come in with it in a postcloture period. It seems to me that person ought to be required to do that in the precloture period.

That leaves us with the problem of how does a concerned Senator, in a situation in which the Senator from Alaska outlined, gain knowledge of what is pending so he can respond before we go into cloture. It seems to me we would be better off addressing it at that point and trying to work something out than to permit this second degree amending in the postcloture period.

I could put a first degree amendment at the desk just to give myself a vehicle and then go off and prepare my second degree amendment for the postcloture period, having gotten a vehicle in on which I can hang it, and then come in.

I do not care how you limit it in scope, its germaneness, or anything else. If I have a real substantive purpose I want to accomplish I can do it in terms of how I draw my first degree amendment so that it gives me a shelter for my second degree amendment that I am going to come in with in the postcloture period.

Mr. STEVENS. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Mr. President, may I continue to hold the floor? I want to address the second part of the amendment. I will yield to the Senator.

Mr. STEVENS. I thank the Senator.

Let me say again I am not unmindful of the problems discussed just now by the Senator from Maryland or the Senator from West Virginia previous to that. The difficulty is we tried to devise a procedure whereby amendments would be presented and would be available prior to the vote on cloture. I think that is still the best answer. But we are unable to get to that point yet. I think we will, in time, realize that the only way we can really know what we are voting cloture on is to see the bill and see the amendments, and, as a matter of fact, see the amendments to the amendments which might be in order under the rules.

We had an approach which could have accomplished that. That unfortunately was not timely yet. I think the day will come when it will be timely.

The Senator from Maryland has a good point. I do not argue with that. The only thing is I do not think that a Senator is sitting on his rights if he does not know of the amendment to be offered by another Senator and has a legitimate concern that should be expressed in the form of an amendment to that amendment prior to its being voted upon by the Senate.

Let me make this very specific. We are going to get into a fight later on this year over the Alaska lands bill. Everybody knows it. I know it. We have some people in the Senate who have areas they want to make into national parks, wildlife refuges, wild or scenic rivers, or national forests in my State. I know those areas pretty well. The people who seek to change their status in terms of the public lands status have some knowledge of them. They do not have the particular knowledge about who is living in what portion of this land, what right-of-way ought to be preserved, what rights to land on river bottoms in the summertime in order to have tourist access ought to be preserved, or the very particular items that, as the Senator from Alaska, it would be my duty to inform the Senate about.

Yet another Senator could come in here if cloture were voted on that at the very last minute and drop an amendment on the desk and say, "I want to make a national park out of all the lands in the Kenai Peninsula."

It does not mean much to other people, but the Kenai Peninsula is an area the size of New England and there are a lot of people who live there. Currently, for all intents and purposes, a considerable portion of it is known as the Kenai moose range. There are people who want to change its status and give it either a refuge or a park status.

I think I ought to have the right to come forward with a perfecting amendment to preserve the rights of the Alaskan people who are there, or preserve access for Alaskans in some way, to make suggestions for amendments to that prime amendment which has been offered, which was not available to me.

Without this amendment, there is no way I can protect my people under the existing law.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. I sympathize with the Senator's problem. As I said earlier, there must be some way we can deal with it as an additional problem.

Let us think about it, talk about it, and see if we can work something out.

It might be that three-fifths of the Senators present and voting could vote to allow that second degree amendment to come in in a situation in extremis, such as the Senator has alluded to.

I am certainly agreeable to giving some thought to this. The amendment as it is written would certainly deal with the Senator's problem, but I am afraid it would create additional ones.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I say to my good friend, I can see the problems he has raised.

I would like to suggest we go back and consider again a time factor of requiring amendments to be filed, requiring petitions for cloture to be filed prior to noon, and requiring amendments that would be considered to be filed at the desk before the close of business that day, or at least, say, before 8 o'clock that night, whatever it might be, and then allow Members to research the amendments that are at the desk, to offer their amendments to those amendments, and have them pending there before the cloture vote takes place.

I do not like to rely upon three-fifths of the Senate for the right to protect my State. I should have that right as a Senator. The rules, if they forbid that right, will get us in a position where more and more of us are going to have to absolutely oppose cloture, period, and that is not going to achieve the Senator's goal if we have more and more cloture petitions defeated.

In order to accommodate the Senator, though, and I do believe we are proceeding in a mode of really trying to be constructive in terms of our approach, let me

withdraw that amendment and proceed to a more controversial one with the hope that our collective staffs might pursue our discussion and see if we can get something we might offer here tomorrow when we convene to accomplish that purpose.

I do withdraw that amendment, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 17

(Purpose: To change the 100 hour limit on debate following cloture to the aggregate of the 100 one hour periods of time to which each member of the Senate would be guaranteed)

Mr. STEVENS. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself and Mr. HATFIELD, proposes an unprinted amendment numbered 17:

On page 1, line 6, following the word "invoked," insert the words: "which time is the aggregate of the one hour of time to which each Member is entitled,".

On page 2, line 6, strike everything through page 3, line 18, and insert in lieu thereof the following:

"The last paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking out the first sentence and inserting in lieu thereof the following:

"After cloture has been invoked, no Senator shall be entitled to use more than one hour on the measure, motion, or other matter pending before the Senate, the amendments thereto, and motions affecting the same, except as hereinafter provided.

"A Senator shall be charged with the use of all time consumed after he is recognized and until he yields the floor, and any rollcall votes and quorum calls he requests except the time consumed in one quorum call immediately prior to a vote on final passage. A Senator may yield any of his remaining time to another Senator or may yield it back to the Presiding Officer, in which case the hours of consideration shall be reduced by the time so yielded back, and it shall be the duty of the Presiding Officer to keep the time of each Senator. No Senator may be yielded more than nine additional hours. If unanimous consent is requested to dispense with the remainder of a quorum call and an objection is heard to the request, the time consumed in the remainder of that quorum call is charged against the time of the objecting Member. If the objecting Senator does not have at least ten minutes remaining, he may not object to dispensing with further proceedings under the quorum call. If the time required to call a quorum exceeds the balance of the objecting Senator's time, such time shall not be charged against the one hundred hours.

"If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.".'.

Mr. STEVENS. Mr. President, this is the most controversial amendment we shall present. I offer it on behalf of myself and the Senator from Oregon (Mr. HATFIELD), our distinguished ranking Republican on the Rules Committee.

Let me try to explain, thought by thought, what this proposal entails.

It would substantially change the procedure of the existing rule XXII and it strikes out the balance of the first sentence of rule XXII as it appears in the majority leader's version of Senate Resolution 61. The first portion of it, if adopted, would assure that no Senator could use more than an hour in the postcloture period in any manner unless he is yielded additional time, again recognizing the total concept of a 100-hour cap.

It specifically says that a Senator will be charged for the use of all time consumed after he is recognized and until he yields the floor, including the time on rollcalls and quorums, except for the one quorum call prior to a vote on final passage, which I believe is the constitutional requirement to ascertain the seconding of a request for rollcall.

However, this would change the procedure to permit a Senator to yield his 1 hour, or any portion of it, to another Senator, or he may yield it back to the Presiding Officer, in which event the time cap would be reduced by the amount of time yielded back.

That language, incidentally, was the language deleted by the majority leader from his amendment that was adopted earlier today. At the time, I indicated that I hoped we would have the opportunity to consider portions of Senate Resolution 61 or the whole text thereof as original text for the purpose of amendment.

I do concede that is trying to deal with the same issue. However, in the context of this version, I think the Senator from West Virginia would see that the yielding back of time might be conducive to shortening the whole process of the postcloture period.

Under this proposal, a Senator could acquire a total of 10 hours, not just the majority leader, but any Senator involved in a postcloture debate could have up to 10 hours if nine other Senators would yield him an hour apiece, or, as a matter of fact, 20 other Senators could yield him a half hour, whatever it would take, but the limit would be 10 hours for any Senator.

When we consider the fact that all time consumed by the Senate after that Senator is recognized is going to be charged against that individual cap, I think the Senate would see that this is a limiting amendment rather than an amendment to expand any time after cloture. In order to protect the Senator who has a substantive issue before the Senate and seeks a quorum call for the purpose of trying to discuss it with another Member, or trying to get the attendance of an absent Member who might be assisting on the matter for any legitimate reason, a quorum call is one of our ways to seek a temporary delay. But having put the quorum call into effect, knowing under this approach that all the time would be charged against the Senator who has been recognized, another Senator who might want to force that Senator to use up his time without being able to discuss totally his proposition could object to removing the quorum call.

This approach would charge the time taken in completing a quorum call, following an objection to dispensing with the remainder of the quorum call, against the Senator who objected. It would state, further, that no Senator could object unless the Senator had 10 minutes remaining and, further, that if for any reason a quorum call proceeding went beyond the remainder of the time, if a Senator did have 10 minutes and the quorum call took 15 minutes, then the 5 minutes would not be charged against anyone but would just expire. It would not be charged against the 100 hours, either.

This amendment also deals with another question, and it therefore has two principal portions, and that is the reprinting of a measure or matter after cloture has been invoked.

Those amendments which are at the desk at the time cloture is voted could be out of order if the measure or matter is reprinted after cloture because of the page reference or the lineage reference, and therefore technically subject to a point of order.

In order to meet that situation, the proposed amendment deals, in its last paragraph, with the problem by saying that if for any reason a measure or matter is printed after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed or reprinted at the request of the sponsors of the amendments. The conforming changes must be limited to lineation and pagination.

That is simply for the purpose of protecting against the situation that developed last year, inadvertently, I believe, in terms of the reprinting of the principal substitute to which the amendment had been offered; but all those amendments were technically out of order because they referred to the original version of the bill rather than to the substitutes.

I am informed by my very competent staff member, Mr. Perles, that in the Senator from West Virginia's recent version of Senate Resolution 61, the last paragraph of this proposal is included, in substance. So I take it that we really do not have to discuss that portion, since our change there would be redundant, now that that is in the amendment. Under the circumstances, I will modify this amendment before it is finally called up, to delete the redundancy.

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

Mr. STEVENS. Let me make one final comment, and then I will yield to the Senator from Oregon.

I think this amendment is the significant one, primarily because it seeks to recognize the fact that in a postcloture period, while some of us are part of the leadership on a permanent basis, through action of the Senators on our respective sides, the actual leadership on a particular bill or an amendment that has been subject to cloture may not lie with the leadership on either side but, as we saw last year, would actually be with perhaps a small number of Senators who were opposed to the leadership on both sides of the aisle.

I think that any changes that are made in the rules should protect the rights of those who seek to swim upstream and make certain that we do not get into a

situation in which the rights of those Senators are so constrained because of time or because of the technicalities of the rules that they will not be able to raise legitimately the alarm they wish to be heard throughout the country.

I did not agree with those Senators last year, as everyone knows, but I had complete admiration for their determination to stick to their point of view and to use completely their rights as Senators to bring to the attention of the country an issue which they considered to be of national importance.

The limiting features of this proposal that we have devised would depend upon the support they have in the Senate; because under this proposal, if there are just a few Senators who wish to swim upstream, the time is going to run on them very quickly. Only if they have the support of other Members who will yield them time will they be able to use even more than a fraction of a day.

Last year, I think we had probably 8 to 10 Members, at the most, who were supporting those who had disagreed with what the Senate wanted to do. Under this approach, that would have been the limit of time they could have used, because every minute consumed by the Senate would be charged against the Senator from the time he was recognized, and the hundred hours would be an absolutely firm 100 hours.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, I am among those Senators who believe that once cloture has been invoked, debate must draw to a close. Postcloture consideration should be a time for summation and tidying up. Postcloture filibusters are an abuse of the Senate rules, and they are an abuse against which the Senate has little protection. They erode the spirit of comity and courtesy that is a part of this institution.

Mr. President, our distinguished majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD), is fond of quoting from the history of the Senate, for which he is well-known; and I note that today, on the floor of the Senate, probably the only Member who recalls the historic issue that I would like to raise at this moment is the Senator from New York (Mr. JAVITS).

I go back to the part of the history of the Senate when filibusters were particularly geared into the question of civil rights. I am reminded that one of the leaders of the cause of civil rights, the Senator from New York (Mr. JAVITS), faced a great adversary in Senator Russell of Georgia, who usually was leading the filibuster against civil rights. But there was a very interesting understanding that these distinguished gentlemen had, particularly Senator Russell, who was on the losing side, that once cloture was laid down, he understood the filibuster was at an end, and the institution of the Senate took preeminence over the individual viewpoint, for which he was well known and about which he felt very sincerely and was very dedicated.

So it is that the current rules do not necessarily invite abuse, but they permit it to happen, as we have seen in the latter days of the Senate. To prevent recurrence of the problem, the rules must be changed.

In my judgment, there is no question about that; and in that sense, the able majority leader and I proceed from the identical premise: At issue is not whether some change is desirable but what kind of change is best.

The rules amendment offered by the distinguished majority leader, I believe, goes too far. No doubt, it would cure the illness, but it excessively chips away at the rights or prerogatives of individual Senators. Fortunately for the Senate, we need not choose between the continued abuses and such a sweeping departure from our traditions.

Mr. President, the amendment now pending offered by the Senator from Alaska and myself is clearly a better solution. It guarantees that the one postcloture hour granted to each Senator shall be inviolate. Senators can do with their hour as they please. They can call up amendments, make points of order, make speeches, request quorum calls, or even ask that the Journal be read. The time they consume is charged against them. It is their right—as it should be—to parcel out that time as they see fit. When their hour expires, Senators have had their say.

Furthermore, Mr. President, if Senators wish, they can even yield their time back to the Presiding Officer, and the postcloture cap will be correspondingly reduced. In so doing, they impinge on no one's time but their own. The rules should never permit a vote of Senators to decrease postcloture time and thus strip a Senator's hour away. Thus much is basic: A Senator should not have to go hat-in-hand to the leadership to ask for time. The distribution of time should be a determination made by individual Members, not a decision exercised by the leadership.

Under the amendment, Senators can also yield their time to other Senators. No restrictions lie on these transfers, except that no Member can receive more than nine such transferred hours. Unlike Senate Resolution 61, no specified Senators act as the collectors and conduits of time. The proposal needlessly elevates the standing of a few Senators over the rest of the membership. Our amendment properly equalizes the status of all Senators.

Mr. President, there is an inherent tension between the rights of individual Members and the rights of the corporate body. Postcloture filibusters tip the balance too far in one direction. Senate Resolution 61, however well-intentioned, tips the scales too heavily in the opposite direction. Perfecting amendments offered by the majority leader prior to the recess tend to address this problem but do not relieve it. The best argument that can be made for the amendment pending before us is that it strikes the proper balance.

I, therefore, urge the amendment be adopted. If passed, it will both end postcloture filibusters and preserve the legislative prerogatives of each U.S. Senator.

Mr. ROBERT C. BYRD. Mr. President, first let me compliment the distinguished Senator from Alaska (Mr. STEVENS) on having laboriously, methodically, systematically, and dedicatedly approached this problem over a long period of time going back into last year. I have met with him on several occasions. He has in a very earnest endeavor attempted to bring about some satisfactory rule changes that will not worsen but will improve the postcloture situation. As a matter of fact he brought in what I thought was some good suggestions that would deal with precloture situations.

I also compliment the distinguished Senator from Oregon (Mr. HATFIELD) who is the ranking minority member on the Committee on Rules and Administration because he has very sincerely and conscientiously attempted to bring to bear his very considerable talents in this effort also.

Now, as to the amendment that the distinguished Senator from Alaska has offered, first of all it will require unanimous consent that it be in order to offer the amendment to my resolution. I, therefore, ask unanimous consent that the substitute may be in order, Mr. President.

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

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the substitute.

Mr. STEVENS. Mr. President, will the Senator withhold that until I get a chance to modify the amendment?

Mr. ROBERT C. BYRD. That was why I wanted to get the yeas and nays. I did not want the Senator to modify it. But I will withhold that. I will not ask for the yeas and nays.

Mr. President, to go to the very jugular vein of this substitute, it removes any semblance of a cap. There is no cap. That is the distinguishing feature and, as a matter of fact, that is the crux of my resolution. It does establish a cap, a cap of 100 hours.

But I ask the distinguished Senator from Alaska if I am correct in saying that his substitute does not envision a cap.

Mr. STEVENS. Mr. President, if I might respond, if the Senator will yield, with his usual accuracy the Senator has zeroed in on the one problem of this amendment, and I would have to say that there is one instance in which the cap could be exceeded, but it is limited to this situation that where a Senator has at least 10 minutes, and he objects to the elimination or to the rescinding of a quorum call, all of the time taken on that quorum call would be charged against the objecting Member to the extent of his time that remains. The provision requires that he have at least 10 minutes so that we are talking about the difference between 10 minutes and in the total time taken in a quorum call which could get up to 15 or 20 minutes at times, and that would not be charged against the 100 hours to the extent that it exceeded the remaining time of the objecting Member.

So the Senator from West Virginia is right that the 100-hour cap can theoretically be lifted by that procedure, but that is the only manner. Other than that all time used by a Senator—and I might say it is my understanding that

the time under this amendment charged against a Senator would be more precise than the time under the distinguished majority leader's amendment because under the distinguished majority leader's amendment all time is charged against the cap. Under our approach every Senator is entitled to 1 hour or up to 10 hours if he has the time yielded to him, and all of the time consumed after the time that Senator is recognized, including yielding to another Senator or including the time taken in voting or the time taken on a quorum, except for the one quorum prior to the rollcall and final passage, is charged against that Senator.

We have an individual chargeability; whereas, the Senator from West Virginia has an overall Senate chargeability on the 100 hours.

I believe that I have to be precise and say "Yes," it is theoretically possible to exceed the 100-hour cap but only to the extent that a Member who had 10 minutes remaining but did not have enough for the full time of the quorum call, would be in a position of objecting to the rescinding of a quorum call.

That is a very small amount under any normal procedure. It could not account to many hours in a postcloture process.

Mr. ROBERT C. BYRD. Mr. President, I appreciate the response by the distinguished Senator, and I say what I am about to say with the utmost respect for the Senator, but I can point to a hole in this amendment that is big enough to drive a 747 through. As a matter of fact, there is a star—I do not know how it is pronounced but it is spelled, I believe, B-e-t-e-l-g-e-u-s-e—that star is so large that it could not pass between the Earth and the Sun, the distance of 93 million miles. There is a hole in this that is as large as that star.

Now, let me point it out to the distinguished Senator. He says that under his amendment it would be only that time charged against an objecting Member who opposes the calling off of a quorum once; that is, if he had as many as 10 minutes. If he did not have 10 minutes remaining, he could not object to calling off a quorum. If he did have whatever time the quorum required over and above his remaining time, then it would not come out of anything.

Well, Mr. President, I am about to take out my gold watch: "Mr. President, I call up amendment No. 123."

That time required less than 2 seconds. Let us allow for the sake of doing some mathematical computations, an average of 10 seconds for calling up an amendment.

"Mr. President, I call up amendment No. 12345."

That took 10 seconds. Every Senator here knows that it does not take 10 seconds to call up an amendment. But once a Senator calls up an amendment he loses the floor. Once a Senator makes a motion he loses the floor. Once a Senator suggests the absence of a quorum he loses the floor.

The Senator says this changes that. But what he is doing then is changing rules other than XXII, and that is not in accordance with the agreement.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. ROBERT C. BYRD. Not right at the moment.

The Senator would change that rule. If he changes the rule, that charges to a Senator time when he does not have the floor, and I do not believe that Senators will want to vote for that resolution knowing what they are doing.

He a moment ago said to the Senate that all time would be charged against a Senator for rollcall votes and for quorum calls, et cetera, et cetera. But under the present rules, Mr. President, when a Senator suggests the absence of a quorum he gives up the floor.

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

I have given up the floor. How is the Senate going to charge me with the time for that quorum when I do not hold the floor?

The same thing is going to be true with regard to rollcall votes or any motion, Mr. President.

"Mr. President, I move that the Senate stand in recess for 30 minutes."

Somebody asks for a yea-and-nay vote. That Senator gives up the floor the second he makes that motion. He gives up the floor.

Or he may say: "Mr. President, I offer Amendment No. 123."

He has given up the floor. He cannot be charged with that time.

So a Senator who has 1 hour, allowing 10 seconds per amendment, can call up 6 amendments per minute, 360 amendments per hour, and if he is allotted—if he can be yielded 9 additional hours, think of the havoc that is wreaked upon this Senate. It would make him a total of 10 hours, and he could call up 3,600 amendments, and at 15 minutes per rollcall vote that is 300 voting hours, and if he is not yielded any time he can take that 1 hour—the late Jim Allen would be delighted to see this change in the rules.

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

Mr. ROBERT C. BYRD. If he could call up in 1 hour, allowing 10 seconds for calling up an amendment, allow him 10 seconds, and he could call it up in 2 seconds, allow him 10 seconds per amendment, he could call up 360 amendments, 15 minutes per vote, and that is 90 hours of rollcall votes, and all he has to do is stand up and call up an amendment and sit down.

The time for reading that amendment cannot be charged against him because he has yielded the floor. The time for debate on the amendment cannot be charged against him because he has yielded the floor. He is sitting in his chair. It would be a travesty of justice to charge that Senator with the time that is consumed.

So, Mr. President, we have not seen anything yet as far as postcloture filibusters are concerned. Once you write into this rule, the standing rule of the Senate, the language that is in this substitute, Mr. President, give me 10 hours and an unlimited amount of brass, and a thorough disregard of the feelings of other Senators, and I can call up 3,600 amendments, demand the yeas and nays on every one of them, move to reconsider them, all within 10 seconds per amendment, and we can stretch the time out ad infinitum.

So, Mr. President, we are not tightening up the rule; we are really making it possible for one or two Senators who wish to prolong the time of the Senate in carrying out action on a measure, as long as they have got the guts and they do not mind being nasty they can do it.

Let us take a look at this:

A Senator shall be charged with the use of all time consumed after he is recognized until he yields the floor.

Mr. STEVENS. Mr. President, will the Senator yield there?

Mr. ROBERT C. BYRD. When he asks for a quorum he automatically yields the floor. If he asks for the yeas and nays and a rollcall starts he loses the floor. If he moves, makes a motion, he loses the floor. If he offers his amendment, he loses the floor. So he cannot be charged with that time because it says, "until he yields the floor."

But he yields it automatically under the present rules, and any rollcall votes and quorum calls he requests, except for the time consumed in one quorum call immediately prior to a vote on final passage—and I suppose that means final passage of the measure—any of those rollcall votes and quorum calls will be charged against him. But the poor fellow yielded the floor when he suggested the absence of a quorum, and now we are going to hang around his neck the 30 minutes that are consumed in the calling of that quorum, even though he automatically gave up the floor.

More than that, once he calls one such quorum and only has about 20 minutes left and gets a rollcall vote on something he has only 5 minutes left. Why should he care? He could not care less, Mr. President. Just charge all the time you want to him. He has only got 5 minutes left. Charge it all to him. And what does it come out of? It results in the stretching of the time so that there is no cap, and once we do away with the cap then we have done away with a remedy that will work in a postcloture situation.

Now I yield the floor.

Mr. STEVENS. Well now, my good friend has taken this concept and has demonstrated how under the existing rule it could be interpreted as being a way to avoid the cap.

I want to assure the Senator from West Virginia that this is an amendment which has been drafted by people who, I think, are fairly astute in terms of the procedures we have followed in the past and in terms of how we would like to see postcloture procedure develop for the future.

This has a new concept, and it means a Senator, after he is recognized, controls the floor. No matter what kind of a motion, rollcall or anything else, he is entitled to that floor until he says, "Mr. President, I yield the floor."

During that time, everything that takes place in the Senate, with two exceptions, is charged against the time that he has. As a Senator, he has an hour, and he could have up to 10 hours if nine others, or however many it takes, would

yield to him up to 10 hours. He could have, in effect, the control of the day. The only two exceptions would be, one, the vote on final passage of the measure itself, not an amendment but final passage, and the other is the objecting of a Senator to the removal of the rollcall.

Under this concept, a Senator who seeks to offer a series of amendments, once he is recognized, could be assured he could go through his amendments and the rollcalls required on those amendments, or any quorum calls he puts in place or yields for. He controls the time for that period, and if he wants to put in a quorum call it comes out of the time he has. If he wants to have a rollcall vote—and I will say I believe this would help one of the problems with rollcalls—I think this amendment would motivate Senators toward not having so many rollcalls in the postcloture period, because that 15 or 20 minutes will come out of the time the Senator has. I believe we will have a lot more voice votes if this procedure is followed.

Moreover, there is a philosophical difference I want to try to articulate. That is that the amendment of the Senator from West Virginia changes the existing procedure in that, while it continues the provision of rule XXII that says each Senator is entitled to an hour, that entire time can be denied if others use up the time. There is a 100-hour cap under the approach of the Senator from West Virginia, and some of the time that is used by the Senate is not charged against the person who has the floor, but that time actually comes out of some other Senator's time, and he would have no way to protect himself.

Actually, God rest his soul, I believe the late Senator from Alabama would be delighted to see the Senator from West Virginia's approach, because I am certain the Senator from Alabama could show us how to use 100 hours and charge that time completely to the Senate, and never let anybody else have a chance to speak. He was very, very competent in interpreting the rules, and he could, in effect, deny everybody else the chance to have 1 hour, by virtue of having the time clock run on 100 hours. I really believe there may be some embryo Jim Allens around here, and I am looking at one (Mr. HELMS) that is not even an embryo any more. I am convinced there are people here who could use the Senator from West Virginia's approach of the cap. Again referring to the fact that existing rules entitle every Senator to an hour, those rules could be used in such a way that he could never get that hour, because those 100 hours would run.

Mr. ROBERT C. BYRD. Wait a minute; does the Senator know about the amendments that I have offered to my own resolution?

Mr. STEVENS. Yes, I think so.

Mr. ROBERT C. BYRD. Well, then his statement is not accurate.

Mr. STEVENS. The Senator still says we have a 100-hour cap, does he not?

Mr. ROBERT C. BYRD. We have a 100-hour cap.

Mr. STEVENS. And he also says we are entitled to 1 hour.

Mr. ROBERT C. BYRD. If we use it.

Mr. STEVENS. If we use it, but under the Senator's approach, if I be recognized, if I put in a quorum call, that time would not count against my hour any more, but it would count against the 100-hour cap.

Mr. ROBERT C. BYRD. Good.

Mr. STEVENS. So that would count against somebody else's time.

Mr. ROBERT C. BYRD. The Senator is exactly right.

Mr. STEVENS. So I could use the time of other Senators.

Mr. ROBERT C. BYRD. How?

Mr. STEVENS. By just using up the time under a quorum call.

Mr. ROBERT C. BYRD. You cannot do it under my amendment.

Mr. STEVENS. When I put in a quorum call, it no longer counts against my time.

Mr. ROBERT C. BYRD. We have a precedent, though, that you cannot ask for a second quorum until business has been transacted.

Mr. STEVENS. That is simple. To transact business, you just call up another amendment.

Mr. ROBERT C. BYRD. To call up an amendment does not constitute transacting business.

Mr. STEVENS. We had that precedent when Senator Allen was here, as I recall.

Mr. ROBERT C. BYRD. We are going to arrange under my amendment, my proposal, to not allow any Senator to call up and dispose of more than two amendments without another Senator's having the right to be called on.

Also, every Senator, under my proposal, would be allowed at least 10 minutes, even after the 100-hours' cap had gone by, if he had not been recognized before. If he had stood on his feet and not yielded any time, he could have up to 10 minutes. So we have provided against that contingency.

Mr. STEVENS. Will the Senator let me finish this? Why do we not make the Senate a group of responsible people and give everybody a bank account? I have a bank account of 60 minutes, and I can have up to 600 minutes.

Mr. ROBERT C. BYRD. Because that is exactly what we have now.

Mr. STEVENS. No, no, wait a minute. You have to let me finish, though.

Mr. ROBERT C. BYRD. We have an hour now. All right.

Mr. STEVENS. Under the procedure we have suggested, again, from the time I am recognized, nothing else can take place in the Senate unless I yield the time. Once I am recognized, I have an hour, or up to 10 hours, and I control anything that happens here until I notify the Chair that I yield the floor. In other words, I cut off the clock against the running of my time, the time that stands charged against me.

Mr. ROBERT C. BYRD. If a Senator stands up and offers an amendment, he loses the floor, right?

Mr. STEVENS. No, we are changing the rule.

Mr. ROBERT C. BYRD. Oh, no.

Mr. STEVENS. Until you say, "Mr. President, I yield the floor," anything that goes on in here is charged against the person who is recognized, but mind you, no one else can do anything.

Mr. ROBERT C. BYRD. Do not point your finger at me it might be misunderstood.

May I say this. Let us say you offer an amendment. Under your proposition, when you offer an amendment you do not yield the floor?

Mr. STEVENS. That is right.

Mr. ROBERT C. BYRD. All right. The clerk reads the amendment; it has not been printed 24 hours, and I demand he read it.

Mr. STEVENS. It is chargeable against my time.

Mr. ROBERT C. BYRD. Chargeable to you, all right. After he reads it, I suggest the absence of a quorum.

Mr. STEVENS. No, I offer the amendment.

Mr. ROBERT C. BYRD. But you are going to hold the floor?

Mr. STEVENS. I am going to hold the floor until I yield it.

Mr. ROBERT C. BYRD. All right. He reads the amendment, and I say, "Mr. President, a point of order; that amendment is not in order." Now who has the floor?

Mr. STEVENS. You ask me if I yield for that purpose. I say, "No, you can raise the point of order on your time after I finish." Before the amendment can come to a vote, I would have to yield the floor.

Mr. ROBERT C. BYRD. So I will not be allowed to make a point of order against the amendment?

Mr. STEVENS. Until I have used whatever time I want to use, and I yield the floor.

Mr. ROBERT C. BYRD. Let us say the majority leader wants to move to recess.

Mr. STEVENS. You would have to wait until I yield the floor.

Mr. ROBERT C. BYRD. He would have to wait until you yield the floor?

Mr. STEVENS. That would be the case today, because you cannot interrupt another Senator in order to recess the Senate.

Mr. ROBERT C. BYRD. Let us say you put in a quorum.

Mr. STEVENS. I put in a quorum; that is, again, for the purpose of my working out something in connection with my amendment. That would be attributed to me.

Mr. ROBERT C. BYRD. All right. Let us say we have a quorum call, and a quorum is not present. I say, "Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays."

Mr. STEVENS. Right.

Mr. ROBERT C. BYRD. We get the yeas and nays, and that takes 20 minutes, and no quorum.

Mr. STEVENS. That is right.

Mr. ROBERT C. BYRD. Then I say, "Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays." That is a rollcall vote, and again a quorum is not present.

Mr. STEVENS. That is right.

Mr. ROBERT C. BYRD. Then I say, "Mr. President, I move that the Sergeant at Arms be instructed to arrest absent Senators, and I ask for the yeas and nays." We have another 20-minute rollcall vote, and what happens to your 60 minutes?

Mr. STEVENS. Mr. President. the answer to the question of the Senator from West Virginia is that as long as I proceed on the quorum call and it is for the purpose of working out my legislative position, the time is running against me. Anything that happens there is going to run against me. From the time that the Senator from West Virginia would start a dilatory tactic, it would be chargeable against him.

I do not think he can get into it, under my approach.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. In a moment. The time is chargeable against me until I yield the floor. Any time that ensues is charged against me, and I would be a stupid Senator if I asked for a quorum call knowing that I was going to get into one of these proceedings of having the Sergeant at Arms to be compelled to have absent Senators attend the floor.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. The Senator is looking at dilatory tactics of the past to judge the tactics of the future.

Mr. ROBERT C. BYRD. All the Senator is asking about is if the Senator will yield to me at the moment. Will the Senator actually say with a straight face and a benign smile that if he puts in a quorum call and a quorum does not show up that it would be to request the attendance of absent Senators, if there were no quorum? Under the Constitution, no business can be conducted without the presence of a quorum.

Mr. STEVENS. It would be a dilatory tactic.

Mr. ROBERT C. BYRD. Would that be a dilatory tactic?

Mr. STEVENS. It would be dilatory if the Senator seeks that and I ask that the call be dispensed with. From that time on the time would be charged against him.

Mr. ROBERT C. BYRD. Let us say that the Senator asks that the call be dispensed with, and I object to it. So the time would be charged against me. But the quorum call would have to go forward and no quorum appeared. Then my friend from North Carolina (Mr. HELMS), feeling that there ought to be a quorum, would say, "Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays."

Would that be a dilatory tactic, with no quorum here?

Mr. STEVENS. It would be if I asked that the proceedings under the quorum call be dispensed with under this approach.

Mr. ROBERT C. BYRD. Of course not. The Senator from North Carolina is entitled to have a quorum here. He looks around and sees three Senators. He should object. And when he objects and that quorum call becomes live, then no business can be transacted until a quorum is established. Does the Senator mean to tell me that he is wanting a rule that will allow all that time to come out of the time of the poor little Senator from Alaska; his 1 hour?

Mr. STEVENS. I would hope the Senator would not want us to be entombed in the mistakes of the past. We are trying to provide aspects by which the future will be more promising so far as the procedures of this august body is concerned. It seems to me this is the way to do it. Again, we are saying each Senator is entitled to so much time, 1 hour. He has to be recognized in order to consume any time.

Mr. ROBERT C. BYRD. All right.

Mr. STEVENS. If he does not want to be recognized ever, he just stands up and says, "Mr. President, I yield back my time." If I did that, there would be a 99-hour cap. If 90 Senators did that, there would be a 10-hour cap. As a matter of fact, last year, if 98 Senators had done it, there would have been a 2-hour cap.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. STEVENS. That filibuster would have been over very fast.

The problem is that if you are going to have the concept by which 100 hours can be reduced, it seems to me that you also have to have some control for an individual Senator to be certain that once he is recognized he can pursue his rights to the utmost. We are saying once a Senator is recognized, he is entitled to hold the floor, notwithstanding anything that occurs, until he has finished his discussion on the matter before us. Admittedly, once I have finished my discussion on my amendment, if I offer an amendment, in order that it could come to a vote I would have to yield the floor. At that time, any other Senator would be entitled to use any portion of his time in connection with anything before the Senate in the postcloture procedure.

Mr. ROBERT C. BYRD. Will the Senator yield at that point?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. But no other Senator seeks recognition. The time for the rollcall vote then will be charged against the Senator from Alaska.

Mr. STEVENS. That is right, the person who offered the amendment. That time would then be chargeable against him.

Mr. ROBERT C. BYRD. Is he going to yield to allow a motion to reconsider?

Mr. STEVENS. Any time is charged.

Mr. ROBERT C. BYRD. In other words, no Senator would be allowed even to move to reconsider unless the Senator from Alaska yielded.

Mr. STEVENS. No, the matter having come to a vote, the procedures of the Senate would allow the motion to reconsider.

Mr. ROBERT C. BYRD. But the Senator's amendment says he will be charged with all time until he yields the floor.

Mr. STEVENS. That is correct. Any time.

Mr. ROBERT C. BYRD. Suppose he refuses to yield to the Senator from North Carolina who wishes to move to reconsider.

Mr. STEVENS. The Senator from North Carolina has a right under the rules to move to reconsider.

Mr. ROBERT C. BYRD. But the Senator is going to change those rights.

Mr. STEVENS. I am only going to change the chargeability of the time in the exercise of those rights. If he wishes to reconsider my amendment, he can move to reconsider it. Incidentally, the motion to reconsider would be chargeable against him and anything he might say on that would be charged against him.

Mr. ROBERT C. BYRD. Let us see what the Senator says. "The Senator shall be charged with the use of all time consumed after he is recognized and until he yields the floor." Suppose he does not yield the floor.

Mr. STEVENS. I have yielded the floor in order for the amendment to come to a vote. It could never come to a vote until I yield the floor.

Mr. ROBERT C. BYRD. The same could be said about a quorum call.

Mr. STEVENS. No.

Mr. ROBERT C. BYRD. Once the Senator puts in a quorum call, he loses the floor, under the present rules. But the Senator is going to change that. He is going to change it, I say to my good friend from New York. The Senator from Alaska is going to change it so that he can put in the quorum call once he gets recognized and be charged with the time for the quorum call, because he is not going to be considered as having yielded the floor. But suppose he himself tries to call off that quorum and the Senator from North Carolina objects.

Mr. STEVENS. The Senator would have to go back and read the verbiage that I presented in this amendment. It says:

> A Senator shall be charged for the use of all time consumed after he is recognized and until he yields the floor, and any rollcall votes and quorum calls he requests, except the time consumed in one quorum call immediately prior to the vote on final passage.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. Is the Senator yielding?

Mr. STEVENS. If it is to give a further explanation of the work product of our committee in response to the Senator from West Virginia, I hope he permits me to do that. I do yield.

Mr. McCLURE. I just want to point out the language on the second page of the amendment. It says, on that precise circumstance:

> If unanimous consent is requested to dispense with the remainder of a quorum call and an objection is heard to the request, the time consumed in the remainder of that quorum call is charged against the time of the objecting Member.

Mr. ROBERT C. BYRD. He can get the floor to object. If he objects——

Mr. McCLURE. The time is charged against him.

Mr. ROBERT C. BYRD. But this Senator has never yielded the floor.

Mr. McCLURE. This would be one circumstance under which the time then would not be charged against this Member but the one who objected simply by reason of the action of the rule the way it is written.

Mr. ROBERT C. BYRD. So, Mr. President, this proves my point. There is no such thing as a cap under the substitute offered by the distinguished Senator from Alaska, no cap, because any time over and above the time that the Senator

from North Carolina had remaining would be charged to nobody.

Mr. McCLURE. Will the Senator yield on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. The Senator would have to have time.

Mr. ROBERT C. BYRD. He would have to have 10 minutes. But if he only had 9½ minutes——

Mr. McCLURE. That is what the Senator from Alaska said nearly an hour and a half ago, that in that event it might go over the cap. If somebody had 10 minutes remaining but not enough to complete the quorum call, it might, in that limited circumstance, go over the cap.

Mr. ROBERT C. BYRD. Yes; also, if a Senator gets recognized, calls up an amendment and sits down, who is charged with the time?

Mr. STEVENS. I might say to the Senator that it says specifically from the time that he is recognized until he yields the floor it is chargeable to him, as are any rollcall votes and quorum calls he requests. Before that amendment of mine comes to a vote I have to request a vote on it.

Mr. ROBERT C. BYRD. But will the Senator answer my question?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. He stands on his feet and says, "Mr. President, I call up amendment No. 123," and he sits down. Who is charged with what happens thereafter?

Mr. STEVENS. He is. You are.

Mr. ROBERT C. BYRD. Does the Senator mean to tell me if I sit down after having called up my amendment that I am going to be charged with the time that the Senator from North Carolina takes in debating that amendment?

Mr. STEVENS. After you yield the floor on the matter.

Mr. ROBERT C. BYRD. All right, Mr. President, I call up amendment 123; I yield the floor.

Mr. STEVENS. All right, then your time has been very quickly——

Mr. ROBERT C. BYRD. Less than 10 seconds.

Mr. STEVENS. Right.

Mr. ROBERT C. BYRD. And the debate on that amendment might take 1 hour, 2 hours, 15 minutes, but the rollcall vote on that amendment will require 15 minutes, at least.

Mr. STEVENS. And who will it be chargeable to? To the Senator.

Mr. ROBERT C. BYRD. Under the Senator's very unreasonable proposal in this regard, he is going to charge that to me. Well, that is all right, I can call up four——

Mr. STEVENS. In between, whoever is debating, or talking, asking for quorum calls, whoever makes the request, will be charged with the time if they request it.

If you have yielded the floor, you stand up, call up an amendment, this amendment 1234, sit down, if anyone wants to talk on it, you say you have yielded, if anyone wants to talk on an amendment, it is chargeable to him. If no one wants to talk, you move adoption of the amendment and the rollcall starts again, chargeable against you.

Mr. ROBERT C. BYRD. Mr. President, does the disintinguished Senator from Alaska really want, does he really want to invoke a very punitive rule on the poor little Senator from West Virginia and say, "You can only call up four amendments, a maximum of four amendments, after cloture is invoked?"

Because, we see that this is the way it would work under his proposal.

I would stand on my feet and say, "Mr. President, I call up amendment XYZ, I yield the floor," get back down in my chair, but eventually there will be a rollcall vote and I will be charged with it, 15 minutes. All right, I only have 45 minutes left.

Later I call up another amendment and I sit down. That rollcall vote, when it occurs, will be charged against me. I only have 30 minutes left.

I stand up later, call up my third amendment, sit down, the rollcall vote, when it occurs, I have 15 minutes left.

I stand up my final and last time, I have 15 other good amendments pending, but all I can do is call up one, because that rollcall vote will be charged against me. My hour is gone. I have been able to call up four amendments.

He is going to limit me to four amendments after cloture is invoked.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I hope the Senator realizes what he has done to me under his amendment. Under his version of Senate Resolution 61, there is a 100-hour cap on the Senate. But the Senator from West Virginia could stand up, call up that amendment 1234, sit down. He is entitled to 1 hour. He has used 10 seconds. But the Senate has used 20 minutes and he has used my time.

I come along and I will stand and there is no time left, because the 100 hours has run.

Mr. ROBERT C. BYRD. Oh, no, Mr. President, it would not have run.

After I called up two amendments and I sought to call up the third, the Chair would say, "I'm sorry," to the Senator from West Virginia, "Does any other Senator wish to call up an amendment?" Then Senator STEVENS arises to his feet and in stentorian tones says, "Mr. President, I call up my amendment. Now, Senator BYRD, you just sit still."

He can have his chance then.

Mr. STEVENS. Oh, no, under the Senator's resolution. I would have 10 minutes to talk. I am guaranteed 10 minutes to talk. I am not guaranteed any time to debate or to offer an amendment.

Mr. ROBERT C. BYRD. The Senator is confusing the two amendments. What he is talking about in his amendment now, which, being a timid Senator, who is very shy about seeking his rights under the Senate rules, would have sat in that chair 99 hours and 59 minutes, and without seeking recognition, and then he timidly and with great temerity rises and addresses the chair. Then he would be allowed 10 minutes in which to speak.

But most Senators are not quite that hesitant and that reluctant to seek recognition during 100 hours. Think of it, 100 hours.

May I say in all sincerity, if we are really going to get at this postcloture situation, in my judgment, there has to be a cap.

Mr. JAVITS. Will the Senator yield on the cap?

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. I think the Senator has, in his own way, just shown the invalidity of his cap, and for this reason. If we have a cap of 100 hours and lose the floor whenever we ask for a rollcall vote, or ask for a quorum call, then we never give every Member an hour. It is doubtful even they would have 10 minutes left for every Member except for the guarantee, because if most any Member sat down, a quorum could be called, a rollcall could be called, and that eats up the time of somebody in this Chamber.

I think that is very worrisome and very puzzling. The Senator has pointed that out himself. It is charged against the cap. That cap can be chewed up awfully fast and many Members denied the privilege of offering amendments.

Now, if I may ask the Senator from West Virginia——

Mr. ROBERT C. BYRD. Yes.

Mr. JAVITS. The difficulty, as I see it, and I am not engaging in a dialectic exercise, this has been very worrisome to me.

I have probably voted for as many cloture votes as anybody here, and I have engaged in more efforts to break filibusters than anybody here, and I have suffered through postcloture filibusters, also, just like all the rest of us.

But I am very worried about the two philosophical concepts. Frankly, I do not think we have the answer, and I wish to explain why.

Under the Senator's concept, the hours could be chewed up by quorum calls, and because those procedures are not interfered with, those quorum calls and amendments and rollcalls are not charged against anybody except the 100-hour cap, because, as I say, the minute a Member asks for them, or it is granted, he sits down. He does not have the floor. It is not charged against him.

As we all know, rollcalls do not take 15 minutes. Members indulge 20, 25, and maybe more minutes. That leaves mighty little room for many Members who will be left stranded with 10 minutes which means they will have no opportunity to bring up any amendment.

The difficulty with that is that we are, of course, dealing here with half what we started to deal with, I might say to the Senator.

When we began, we thought we would work out a procedure which would assure the amendment and refining of the measure before we came to cloture. That is what we anticipated.

This is really unanticipated. We are dealing only with a postcloture procedure, and, having been through the mill here, we know cloture can come awfully fast and awfully drastically.

I do not think it is what we want as Senators to give the whole power to 60 Members to summarily bring these debates to a close, even though there may not have been an adequate opportunity to offer amendments. If there

was, I would not argue about this, but there is not.

Now, there is nothing. We are just going to have a postcloture procedure.

If I may continue a minute, and I do not wish to intrude, but take Senator STEVENS' proposition which gives each Member the hour. It was my understanding, and I do not necessarily fully agree with the explanation he made, that having brought up an amendment, it is implicit that we are entitled to a voice vote or division, because that only takes your own request. That time is charged to you, according to his amendment. The voice vote or the division takes minutes that is charged to us.

If somebody asks for a rollcall, that time, as I understood his amendment as drawn, is charged to the man who asks for the rollcall.

So there is a limitation. A Member uses up his own time if he asks for the rollcall.

The Senator has pointed out some deficiencies in that.

The fact is that his 100-hour cap can be somewhat exceeded, but not a great deal.

The Senator said 900 hours. After all, he does have a 100-hour cap and with only these, each quorum amount which might be thrown in, really cannot be figured.

So his problem is, how do we keep to that 100-hour cap?

I do not know that I will vote with or against him. But, personally, I think that is a better proposition, frankly, than yours, because under your proposition, you do have a very strict 100-hour cap. But everybody and his grandfather can use that up and deprive some Senators, maybe a great many of them, of the right to make amendments, and on your two-amendment business, you have 59 Democratic Senators. If every Democratic Senator made two amendments, that is 100 hours or more.

So we are somewhere, not really having a meeting of the minds in order to be fair and, at the same time, try to limit the situation which we are dealing with.

I am not pretending now it is possible to go back to the precloture proposition.

I think we are over that hurdle, and I think it is pretty clear that we cannot agree on that in the time we have.

However, it seems to me that somewhere between the assurance to an individual Member that he can bring up some amendments, even if it does somewhat exceed the cap, as contrasted with the fact that the whole hundred hours can be used up and deprive many Members of bringing up any amendments—so far, that is to be preferred.

I am asking the question, and the Senator is thoroughly versed in what he wishes to do, and perhaps he can explain it to us.

Mr. ROBERT C. BYRD. Mr. President, will the Senator state the question again?

Mr. JAVITS. My question is this:

Under the 100-hour cap and the fact that the Senator from West Virginia leaves unimpaired the rule that a Member loses the floor the minute he brings up an amendment, the minute he asks for a quorum call, the minute he asks for a rollcall, why cannot Members use up time in those proceedings, which cost them nothing in time, so that you chew 40 or 50 hours, and it deprives a vast number of Members of 10 minutes?

There is no assurance, on a hotly contested bill, that cloture will not come so fast or that people will not filibuster during the precloture period, during which there are no guarantees, so that, for practical purposes, many Members can be shut off from bringing up any amendments to the measure on which cloture has been invoked.

Mr. ROBERT C. BYRD. The Senator asks a theoretical question. It could happen, I suppose.

Remember, No. 1, that there are going to be 2 days before cloture is invoked. If cloture is invoked the first time around, 2 days have gone by. There have been, say, two 8-hour days, and that is 16 hours in which Senators could have called up amendments. Cloture is not invoked on that occasion, though cloture could occur the next day.

So there is some time before cloture is invoked for Senators to be recognized and to call up amendments.

Second, in my proposal is a provision that allows for the extension of time beyond the 100 hours. So that if, indeed, we get into a situation in which additional time is needed—and, after all, we operate in this body largely on the basis of comity and courtesy and consideration for one another, as well as understanding. I cannot envision there ever coming a time when Senators are going to use up all the cap and a Senator is going to be denied the opportunity to obtain recognition in order to call up an amendment. So we can enlarge the cap.

We also have precedents against dilatory quorum calls. Unless business has been transacted following the establishment of a quorum, no quorum call can be required. So the existing rule—that portion of it which would not be changed—plus the precedents we have set, plus the provisions of the resolution I have offered—I say to my friend from New York that because of those things, every Senator certainly would be guaranteed an opportunity to call up legitimate amendments.

Moreover, the Senator says that 59 Senators on the Democratic side might call up amendments. As a usual thing, it is the Members who oppose the measure who call up the amendments. It is not the Senators who invoke cloture. As a general rule, it is 1 Senator, or 2 or 3 or 4 or 5 or 8 or 10 or 15 or 20 who oppose cloture, who will call up the amendments.

So, if we are going to talk about a hypothetical situation, I do not think we should give away the fact that custom in the past and practice and experience all indicate that the amendments are not going to be called up by the Members who want to shut off debate.

I do not know that I have answered the Senator's question—perhaps in part, perhaps not.

Mr. JAVITS. If the Senator will yield one moment further, as to the first 16 hours the Senator mentioned, STROM THURMOND made a speech for 32 hours.

Mr. ROBERT C. BYRD. Thirty-two?

Mr. JAVITS. I think so. He stood right there, and his first wife sat in the balcony, overlooking his performance; and I think Wayne Morse broke that record and made a speech for 36 hours.

It does not take many Senators to chew up 36 hours, and that is the basic effect of what we are trying to do.

Considering the postcloture period, considering how tough it is to get cloture around here, I also can consider how tough it will be to get the time extended.

As to all this comity, it does not work for cloture votes, to begin with. I doubt that it is going to work for the increase of time; but it could work for the decrease of time, effectively, and that would aggravate the problem I mentioned of cutting off not 20 but 50 or 60 Members of the Senate.

Finally, Mr. President, I was in the House for 8 years, and that combined motion for the previous question, which went boom—just like a guillotine—was something which made the House a very different body from the Senate of the United States.

I have no real patience with those who say we are the greatest deliberative body in the world, so let us have no cloture at all. We have to do the business, and we have to do the people's business.

But when you get down to whether the Stevens proposition is going to add 10 hours, 12 hours, or 15 hours because of quorum calls, and whether the proposition of the Senator from West Virginia is going to deprive 30 or 40 Members of the right to make any amendment at all, with no guarantee of a precloture proceeding, I regret to say that I must choose the Stevens proposition.

Mr. ROBERT C. BYRD. I am sorry to hear the Senator say that. I do not believe that, he being a reasonable man, he is going to say that my resolution deprives 20, 30, or 40 Members of calling up their amendments. There is nothing in it that would indicate such, because once a Senator calls up two amendments, he cannot be recognized again until every other Senator has had a similar opportunity to call up two amendments.

It is likely that Senators, under these constraints, are going to call up the two amendments they think are the most important of their amendments. If they have 1,600 amendments at the desk, they are going to call up the two that they think are the most meritorious and have the best chance of being adopted.

(Mr. BAUCUS assumed the chair).

Mr. JAVITS. Mr. President, will the Senator yield to me for a correction?

Mr. ROBERT C. BYRD. I was going to say that the Senator had better correct that, lest STROM THURMOND comes to the floor——

Mr. JAVITS. STROM THURMOND spoke for 24 hours and 18 minutes, and he broke Wayne Morse's record, which was 22 hours. Either is enough to take care of the 16 hours the Senator spoke of.

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

Mr. ROBERT C. BYRD. I yield.

Mr. SARBANES. Mr. President, the proposal of the Senator from West Virginia, as I understand it, was meant to address itself to a problem which the Senator from New York, himself, raised in some of the sessions we had.

It is my understanding that the proposal of the Senator from West Virginia of a 100-hour cap was really addressed to a problem which the Senator from New York raised with respect to the 1-hour allocation per individual, which is to say that it limits a Senator, at the maximum, to four amendments, with rollcalls, and that is assuming no debate time whatsoever.

As a practical matter, what the proposal of the Senator from West Virginia permits is with respect to a Member who is very interested in the legislation and has a number of amendments he wishes to present. It is highly likely, as a practical matter, that he is going to get the opportunity to present those amendments and get to a vote on them. It is guaranteed that he cannot do that to the exclusion of others who may want to present amendments; because after two amendments, they are going to be able to come in with their amendments and claim preferential recognition in order to offer their amendments.

However, if you get a Member or a couple of Members who have a keen interest in the matter, and they are the ones who really want to keep pressing the amendments, and there are not other Members who wish to do that, then their opportunity is going to be much greater, under the proposal offered by the Senator from West Virginia, than it is under the proposal we are now considering; because under that proposal, those Members are going to be held to the 1 hour they have been allocated, unless we get this yielding of time. That has not been discussed much here on the floor in considering this matter, but I must say to the Senator that I find great problems with that.

I say, with all respect to the Senator from Alaska, that, given the comity and cooperation around here, I think it means, in effect, that any Member who wants 10 hours is going to get 10 hours; because I believe Members are going to yield their hour to him if they do not intend to use it, even if they are on the other side of the issue.

The Member is going to come to them and is going to say: "Yes, you voted for cloture and, yes, I understand that you are going to vote against the legislation in the end; but won't you please give me your hour, because I need it in order to debate a little further? I need it to offer some amendments," and so forth.

So that yielding is going to take place. One is going to be very hard put, as a matter of fact, as a Member of the Senate not to respond to a request from a colleague, even if he is on the opposite side of the issue, who comes to you and says, "Well, you know, we have a limit here; won't you give me your hour in order to debate?" So the likelihood is, for those who seriously want to present a number of amendments, their opportunity is going to be heightened under the proposal of the Senator from West Virginia rather than this proposal if we stick to the 1-hour limitation on the Member.

Mr. GOLDWATER. Mr. President, if the Senator will yield for a correction just to further make the record straight, I wish to question him on the longevity of debates. I sat in the chair most of the 22 hours when Senator Morse made his speech which is the record, because some time preceding the establishment of the record the Senator from South Carolina obviously had to leave the Chamber, and I asked if he would yield to me and he did for sufficient time for him to visit another Chamber. So Senator Morse still holds the record.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. SARBANES. I yield.

Mr. STEVENS. That is a distinguished record.

I might say to the Senator from Maryland the problem is the other side as far as I am concerned in this Senate Resolution 61, and realizing the impact of what he just said I would hope he would take a look at it again. In the first place, under Senate Resolution 61, a Senator may yield his time to the majority or minority leader, not to the Senators who would be involved in the filibuster. Those Senators who were involved in filibustering of the gas bill would not have had 1 hour yielded to them in the postcloture period to call up any of the amendments they had at the desk.

We are in the situation that, under Senate Resolution 61, 60 Members can cut the time down to 20 hours but theoretically each 100 Members has 1 hour. What it means is by the vote of 60 Members the time can be reduced to 20 hours and 20 Senators have automatically lost their hour, or 40 Senators already lost their hour, but what I am saying is if the Senator really wants to reduce it down to 20 hours it ought to take 80 Senators to say "Let me give up my hour."

The answer to the Senator from Maryland is if a Senator does not want to be besieged by his colleague to ask him to yield his time, he has a simple mechanism under our approach: stand up and say: "Mr. President, I yield back my hour."

Mr. ROBERT C. BYRD addressed the Chair.

Mr. STEVENS. Wait 1 second. If I can answer the Senator from Marvland, I hope. Under our mechanism the time could be reduced to 40 hours by 60 Senators. It could be reduced to 20 hours by 80 Senators. A Senator does not have to yield any of his time to anyone. He can give it back and tell the Senate that the Senate is going to be finished with its business an hour sooner.

Mr. SARBANES. As a practical matter—let us look at its as a practical matter—I may not want to yield back my hour until we get toward the end, because I do not know whether I am going to need to use it or not as the procedure evolves. On the other hand, let us assume I am holding on to my hour, and I am on the other side of the Senators who are delaying this thing. I really want to go to a conclusion. Ordinarily, I do not want to give up my hour. I may get something involving my own State, the same analogy that the Senator from Alaska used earlier in the day, when all of a sudden having whatever time I have becomes very important to me. Along comes one of the filibusterers and he says, "You know, you have some time, and I really need to make a presentation here. Would you give me a half hour of your time?"

By and large, I think Members are going to yield their time in that instance. So allowing that it is almost going to guarantee that a Member is going to be able to get 10 hours of time or something close to it, and makes it very difficult for Members to deny that request as a matter of comity amongst Members of the Senate.

Mr. President, I think if you really stop and think about it, you would not deny that that is likely to be the situation that will prevail here in the body.

Mr. STEVENS. Again, I say to my good friend, turn that coin over. Can he imagine 60 Senators having voted cloture who are going to be unwilling once they see what is going to happen with all the desk lined with amendments of Senators who are dissidents who want to again continue the process of alarming the country as to what is going on? And they have that right in my opinion. Can the Senator see those 60 Senators who vote cloture being unwilling to reduce after 10 hours the total time to 20 thereby denying the others their chance to have any opportunity to continue the process of trying to change the legislation that is before the Senate?

The majority leader's Senate Resolution 61 again not only goes to the concept of the Senate as a whole having time allocated of 100 hours, but it changes the rule that I am entitled to 1 hour. It still says I am entitled to 1 hour even with the reduction provision here in Senate Resolution 61, whereby the same 60 could cut the time down to a total of 20 hours after the expiration of 10. I am theoretically entitled to 1 hour but that will not be the case.

Again, let us go back to my Alaska lands measure and take a look at that necessity for yielding time.

Mr. SARBANES. Mr. President, will the Senator yield at that point?

Mr. STEVENS. I yield.

Mr. SARBANES. I wish to separate out what I think are two or three entirely separate analytical problems. I understand the point the Senator is raising about the ability of an extraordinary majority, and I underscore that it is extraordinary. The Senate needs 60 Members to reduce the time down to what it would amount to as a minimum of 30 hours, because we cannot make the motion until 10 hours have gone.

Mr. STEVENS. I stand corrected. I was corrected again on that. The Senator is correct. It is after 20 hours, 10 additional hours, so it is a total of 30.

Mr. SARBANES. The minimum. The rock minimum is 30 hours.

I can understand the Senator then

coming on saying he does not think that is enough time as compared with 100 and either he wants to stay with a full 100 or something greater than 30. But that is a different point and the Senator can deal with that point with an amendment addressed to that question only from the proposition that he has come in with in terms of this proposed—I guess it is not a substitute—lengthy amendment that is here which goes well beyond that in terms of the matters it seeks to address itself to.

First of all, it permits the yielding of up to an additional 9 hours to any one Senator.

And the point I simply make with respect to that, to repeat what I said a little earlier, is it seems to me Members are going to be hard put not to give some other time to someone who asks for it even if they are on the other side. Members will be reluctant to yield back all their time, because they will not know what is coming along later on and will not want to be, as they were, in a totally exposed position and, therefore, will tend to respond to those requests from a colleague, even though he is on the other side on the issue, because the appeal will be made in terms: "I know you have voted for cloture. I know you are going to vote against me on the issue. But will you give me a half-hour of your time so I can further develop this issue?"

So in that sense, I think allowing that kind of yielding, especially directly to those who wish to carry on the debate, is in fact going to bring it about.

The other point I was seeking to make was one that again is separate analytically from this question of whether the three-fifths can reduce down below 100 hours. It was the response to Senator JAVITS that if a Senator has an hour he can use that up on a couple of amendments. This other procedure that is in the proposal of the Senator from West Virginia does mean that if there are a handful of interested Members who want to propose amendments and the rest of the body is indifferent to offering or proposing amendments that handful of Members is going to get a much better opportunity, as a practical matter, to propose their amendments and have them considered and have them voted on under the proposal of the Senator from West Virginia than they will be under the approach of the Senator from Alaska.

Mr. STEVENS. Mr. President, if the Senator will let me respond to that——

Mr. ROBERT C. BYRD. Mr. President——

Mr. STEVENS. I believe the Senator has the floor. Will he permit me to respond to that?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Let me say again I have to go to specific issues in order for you to see my problem. Under the approach of the Senator from West Virginia of 1 hour, under the existing rule, with not being charged with all the dilatory things that can take place, I can actually use more than 20 hours of the Senate's time in 1 hour. Believe me, I am sure the Senator realizes that, I am sure he realizes that as far as the chargeability, particularly if I can get recognized.

But one of the problems I have about the Senator from West Virginia's version of Senate Resolution 61 now is the problem of recognition for dissidents.

With due respect to my good friend from West Virginia, it looks like a West Virginia train coming out of the mountains a little bit if you say 60 people can say we are going to terminate the debate and 60 people can cut down the 100 hours to 30 hours, and that you can yield time but you can only yield it to the majority and minority leaders. That means now coming from a far-distant State as I do, having this issue looming high on our horizon—with a very low silhouette here—but it is very large and it is going to take some time, I am very concerned about the Senator's proposal.

We are only going to be two people involved in that debate, and we are going to have a lot of amendments, and I think the Senate is going to get tired of that debate in time, and whatever rule we are talking about has a direct application to the subject matter, at least from my point of view, and how do I, as a Senator from one State, with a bill that affects only one State, with 98 other Senators wanting to get on with the business that affects their States or the Nation as a whole, how do I look at the change in these rules and say, "You know, you have assisted the desire to assure that the postcloture procedure is reasonable and fair, but you have just gutted yourself"?

There is no other way to look at this proposal, Senate Resolution 61, other than to say that it would probably be that on an issue that affected only one or maybe two States, the Senate would quickly determine to not only vote cloture but to limit the time to 30 hours, and in that time limit the people who are directly affected would have less opportunity to protect their interests than under the existing rules, because under Senate Resolution 61, while I am entitled to an hour, it can be eliminated by the 60 votes.

While I am entitled to an hour—and if I can get recognized I can use more than I could under our proposal, more full time. The Senator from West Virginia, I am sure, will agree that when Jim Allen used a lot of time on just several motions—as a matter of fact, I was amazed that he had used so little time when the whole postcloture procedure was over. I think he still had as much time, almost, as any other Senator, and yet he had been the mover of most of the motions and parliamentary tactics that consumed the time.

Now, that could still go on because we are not changing the rules at all. The only thing is there is a cap over that procedure. We are saying if this rule is adopted that the time will come when the postcloture time will run out. Meanwhile the rest of us who have legitimate substantive issues to raise would not be able to raise them because the cap would have expired, and the only way to get an extension of time would be to get those three-fifths of the Senators who voted cloture, voted to limit time, to give us additional time.

I do not think you can foresee that happening. I say to my good friend all I am saying is that we are looking to protect individual Senators' rights while, at the same time, agreeing to a 100-hour cap.

My good friend from West Virginia is looking to assure, in my opinion, that the 100-hour cap is sacrosanct and, at the same time, not amend existing rules other than rule XXII.

Under those circumstances, without amending other rules, and with assuring us we still have 100 hours, the approach is doomed to failure.

I really think that if you analyze it deeply enough you will see it means we are not going to vote cloture at all once this procedure is adopted and followed just once. The Senate will be so mad that it will never vote for cloture again.

If you remember after the last procedure, and I assisted and worked with the Senator from West Virginia and the Vice President and others in trying to devise a method to legitimately and honorably end that almost endless procedure. Even the way it happened there were more people disturbed about the fact that the procedure was used than were disturbed about the postcloture filibuster itself. I think the Senator from West Virginia would realize that at the time we both had people coming to us and saying, "OK, it happened this time, but don't ever let it happen again."

I believe really that this will happen here under the Senate Resolution 61 procedure. You are going to see 60 people vote cloture, and once they vote cloture, they are going to be inclined to cut it down to 30 hours, and once we cut it down to 30 hours, it is going to be practically a leadership proposition to terminate debate without regard to an individual Senator's rights or without regard to the individual Senator's responsibilities to his State and his constituents. I really think Senate Resolution 61 is going the wrong way. That is why we have had difficulty in getting a time agreement, if you really want to know, because there is no way we can see as a minority—and we are just 1 off of 60, just 1 member of the minority joins the majority today, and one would be assured that debate would be terminated, and that debate would be limited to 30 hours. There is never even a minority member in that chair any more. It would mean that only majority people would be recognized. It would mean that the rules would make us impotent as far as protecting our States is concerned.

Now, I can tell you that there are times when the minority is not a partisan minority, as you well know. It is a philosophical minority. It was on the gas bill. That was a bipartisan minority, and they were exercising their rights.

I think we ought to protect their right to protest, their right to be dissidents, but to assure an orderly procedure to bring the matter to a final resolution.

That means that we bend over backward to give the individual Senators their rights. The resolution of the Sena-

tor from West Virginia, again respectfully, bends over backward to give the Senate rights and to give the leadership rights.

Mr. SARBANES. Mr. President, will the Senator yield at that point?

Mr. STEVENS. The majority leader has the floor.

Mr. ROBERT C. BYRD. Yes.

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

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. Is the concern of the Senator from Alaska because his amendment does not accept the approach of the Senator from West Virginia, and then to argue that the 30 hours is not the right figure, and there ought to be some other figure? The Senator from Alaska's amendment goes beyond that. That is what you are focusing on and talking about it, and I can understand that point, and I think it is one we ought to address if that is conceived of as too low.

But not only do you focus on that point—in other words, you did not come in with an amendment which said, "Well, we think the approach of the cap and all that that involves is the right idea to go about this in order to deal with the postcloture filibuster, but we just think you have allowed too low a cap by a majority that is, even though extraordinary, not extraordinary enough," or whatever those arguments are, "and that is the part we want to change."

You have come in with a different approach altogether, an approach which allows the 100-hour cap, in effect, to be violated, and leaves open then the opportunity really to other means to develop a postcloture filibuster.

I was listening to the other debate and, of course, there are all kinds of problems here because you can get a three- or four-way progression in here. You may offer the amendment and not ask for a vote.

Mr. STEVENS. That is right.

Mr. SARBANES. Someone else may ask for a vote and someone else may ask for the yeas and nays and on and on it may go; the question of who allocates the time, who has the floor, and who is given the floor in order to make those motions under your proposal.

Mr. STEVENS. I hope the Senator will be fair about that. I hope he will be fair about that because the amendment specifically says that you are chargeable with the time on quorum calls or rollcalls that you request, and if you request a rollcall on my amendment, you are going to be charged with that time.

But again we are trying to remember we are 100 equal Senators and we ought to have equal rights to access as far as legislation is concerned.

The postcloture procedure should not deny me that equality. Yes, Senate Resolution 61, through the vote of 60 Members, could deny me that right because by the time I got recognized the 30 hours would be exhausted, and the Presiding Officer would say, "The time has expired and it is time for a vote."

No matter what is pending, who is recognized or anything else, under Senate Resolution 61, 100 hours is the cap, and the Senate determines it is going to vote at the end of 100 hours.

We approached it from the point of view of let us try to achieve the majority leader's objective of assuring the Senate that after the expiration of 100 hours we would vote but, at the same time, leave to each Senator the right to protect himself. If we are to reduce the time from 100 hours it would be done by each Senator yielding his time or so much of it as he wanted to, and the Senate would be on notice.

Incidentally, this is not something that is new. We did that in the first years I was here. Once cloture was voted, we would yield back our hour, so that everybody would be on notice that we were not going to use it. It was a tactic at that time; I do not know why we have gotten out of that habit, but we did it in the late 1960's and the early 1970's. We did that.

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

Mr. STEVENS. If I may do so without yielding the floor at this point.

Mr. SARBANES. Would you yield back your time in a postcloture situation?

Mr. STEVENS. I have.

Mr. SARBANES. Would you do it in the future, do you think?

Mr. STEVENS. Under Senate Resolution 61 I would not.

Mr. SARBANES. Would you under your proposal?

Mr. STEVENS. Yes.

Mr. SARBANES. Suppose we had the proposal you put in earlier in the day, to allow amendments in the second degree to amendments that were pending at the desk at the time cloture was voted, so that some Member could get up here in the Chamber and propose an amendment in the second degree to a pending amendment of which you were aware, but you had absolutely no awareness that this second degree amendment would come in. Would you yield back your time and place yourself in the position of not being able even to speak or respond to that second degree amendment?

Mr. STEVENS. The Senator asked me would I. He did not say when I would, but I would only do it when I was certain that there would be no amendments that would be germane that would affect my State.

That is a very simple thing to determine. Take the Consumer Product Safety Commission. All of a sudden, on that proposal, we had some anti-gun amendments that came just sneaking around the corner at us. We did not anticipate them at all, but they were up there at the desk.

We would have to have a little bit of a crystal ball, but the answer is yes, I would under circumstances that I was assured I would not be compelled to use it.

Normally, we would yield the time to a Senator we agreed with. Under normal circumstances, there is someone here, either on my side or on your side, whose position I agree with. I would yield him the time, knowing full well that if I had to make a contribution he would let me have some of it back.

But I believe the Senate, in this regard, has to decide that each Senator has the same rights after cloture that he has before cloture, equal rights. If we are to preserve that concept, I say Senate Resolution 61 has to be amended in some way. I have deep respect for my friend from West Virginia. I know what he is trying to do; I am trying to do the same thing.

I think all this procedure of live quorum calls, motions to compel the attendance of absent Senators, and so on, is a complete waste of time and makes us look like a complete bunch of fools. But the real substance of an issue has to be addressed, and we have to have our right to do that. I do not see, with due respect, how Senate Resolution 61 is going to protect me, or assure me that I can protect my State and the people of my State as I should, that I can get recognized, make the motions, and offer the amendments under any circumstances to protect my State.

Under our approach I can be assured of that. I might have to decide which of the amendments are the most important, but I am assured that I will get recognized, and I am assured that I will have time. I really hope my good friend from West Virginia will change this concept of the cap from the Senate having 100 hours to each Senator having 1 hour. If we can just cross that bridge philosophically, then I think we can get together before we are through here today or tomorrow, and have a resolution that will be overwhelmingly supported on both sides.

Mr. ROBERT C. BYRD. Mr. President, when the Senate gets away from the concept of a cap, I do not think it will have any remedy for the present ill that afflicts the Senate once cloture is invoked; and I think, with all respect to the distinguished Senator from Alaska, that his resolution would open up opportunities for prolonging the debate even beyond, in some aspects, what can be done at the present time.

He indicates that Senators can yield back their time. I do not believe that. I believe that one objection will keep a Senator from yielding back his time, because under the present cloture rule time can be yielded only by unanimous consent, and the reason why Senators have been able to yield back their time is because nobody has objected.

A Senator is not allotted an hour; he has an hour if he demands it. He does not have to use it. He only has an hour if he asks for it. If he does not ask for it, the Chair puts the question on the measure, and the ball game is over.

So this thing of standing and yielding back your time can be done without objection, but if there is objection, under the present rule no time can be yielded except by unanimous consent. He cannot yield it back to the Chair, because he has no time to yield back. He only has time if he demands recognition and demands time. Then he is yielded up to 1 hour.

Let us take the Senator's proposal. He says that 80 or 90 Senators yield back their time—by unanimous consent. All right; let us say that 90 are permitted, by unanimous consent to yield back their

time. That would leave 10 Senators with an hour each.

Now, if each Senator is going to be charged with the quorum calls that he asks for, and not one of the 90 can ask for a quorum call because, by unanimous consent, those 90 have yielded back their time, the poor Senator here is stuck with only 10 hours remaining and 10 Senators claiming those 10 hours, and he wants a quorum.

What is going to happen? He is going to have that quorum charged against him. And if he asks for a yea-or-nay vote, he is going to have that time charged against him. And after getting the yeas and nays, he is entitled to another quorum call, because that constitutes the transaction of business, and there are only three Senators on the floor and he wants a quorum to hear what he has to say before they vote. Or he asks for the yeas and nays, and the request is not seconded by a fifth, so he puts in a quorum call, and that quorum call is charged against him under the proposal by the distinguished Senator from Alaska, although he would allow Senators to yield back their time, that is not in accordance with the present rule, and he would allow Senators to yield time to other Senators, and that is not in accordance with the present rule; it has to be done by unanimous consent.

Then it would end up with those 10 Senators, perhaps, conceivably having 10 minutes or 15 minutes, because any quorum calls that are requested, they are the only persons who can do it, because they are the only persons who have time. They are the only persons who can. The other Senators could not make a point of order, they could not appeal the rulings of the Chair, they could not ask for the yeas and nays on a matter. They could not, once they had yielded their time back, get it back then, except by unanimous consent.

The Senator does not make any provision for that. The Senator exhausts all his time under his present procedure, and then, once having yielded back the time to make a point of order, he does not have any time; he is helpless. So 90 Senators have been rendered helpless because, under the new rule the distinguished Senator from Alaska would have us accept, the Senators, ipso facto, who have by unanimous consent yielded back their time, might as well leave the floor, because they cannot make points of order, they cannot ask for quorum calls, they cannot offer amendments, and they cannot make motions, because they do not have any time.

So, Mr. President, I find the following faults with the amendment by the Senator from Alaska, in summation: No. 1, it does away with the cap. There is no cap. The word cap is not included in the conceptual lexicon with respect to this amendment. There is no cap. That is the problem now under postcloture, there is no cap. There is no cloture motion that can be offered to the postcloture filibuster. So there is no cap.

The distinguished Senator would allow Senators to yield time without unanimous consent. My resolution would allow Senators to yield the majority leader, the minority leader, the two ranking managers, and, to the extent that any one of those four and/or each of those four could have only up to a total of 2 hours scheduled to him, making a total of 3 hours under his control. The majority and minority leaders and the two managers, I should think, if experience will be the lamp unto our feet, are going to be fair in their yielding of that time.

Under the Senator's proposal, nine Senators could yield up to 9 hours to an obstructive Senator, if they have 10 hours. As I say, he could offer any number of amendments and simply sit down, and he has then yielded the floor. The Senator from Alaska says that time will be charged against him for whatever ensues thereafter, until he yields the floor. Whether he likes it or not, he is going to be charged with that time after he is recognized. He cannot ask for a rollcall vote without it being charged against him. He cannot ask for a quorum call without it being charged against him. But he can have some of the other Senators ask for the rollcall votes. He can easily stretch that 10 hours, I imagine, into 100 hours.

Any Senator who wishes to use the rules under this proposal could stretch 10 hours into 100 hours by simply getting other Senators to ask for quorum calls, other Senators to move to reconsider, other Senators to move to table, other Senators to make points of order, other Senators to move to table the points of order or to appeal the points of order. It just opens up a Pandora's box.

Those who wish to obstruct would have a field day.

It is true that my proposal is going to eliminate the ability of one or two Senators, or a half dozen Senators, to kill a bill by stalling. That is what we are really talking about.

I think someone indicated a few days ago that the greatest number of Senators who had requested time after cloture was invoked was less than 30 on any measure on which cloture has been invoked in the past.

This proposal of mine would not bring on all of the ills which have been conjured up by these very genius managers here, but I can see a lot of loopholes in the Senator's proposal.

He is going to change the rules so that a Senator who suggests the absence of a quorum does not yield the floor. The Senator who moves a motion does not yield the floor. The Senator who makes the point of order does not yield the floor. All these are going to be rules changes, mind you. The Senator who offers an amendment does not yield the floor. That is a rules change.

He is going to allow Senators to yield their time to other Senators without seeking unanimous consent. It would be theoretically possible for the 36 Senators on the other side of the aisle to yield their time to four Senators, and the one Senator who was managing the bill would have 1 hour of his own. What fun could those four Senators have in postcloture.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I am certain everyone can pick up the point that we have a controversial proposal and I am sure the Senator in time will make a motion to table it. But I am still worried about the rights of the individual Senators. I would like to explore with the Senator from West Virginia some concept that would roll into Senate Resolution 61 a time agreement for an individual Senator. When we enter into a unanimous-consent agreement today the clock starts running and anything that happens is chargeable against that time.

All we are seeking is a time agreement in a postcloture procedure whereby each Senator is entitled to a 1-hour concept under a time agreement in the usual form.

The difficulty that we have with the proposal of the Senator from West Virginia is that at present there is no way an individual Senator can demand his entitlement of up to 1 hour.

Under the existing rule, it says that no Senator is entitled to speak for more than 1 hour. The Senator is correct, it does not say he is entitled absolutely to the 1 hour, but it says he cannot speak for more than 1 hour.

There is no time cap involved, though, in that concept. As we know, the procedural motions, rollcalls, and everything else lead into a process whereby that theoretical 100 hours could be extended out to almost no limit.

We want to see a limit, but we also want to see an individual Senator protected in the concept that is embodied in the existing rule XXII which says, if you read it the other way, that you are entitled to 1 hour.

Mr. ROBERT C. BYRD. The Senator does not protect the individual Senators if he is going to charge that poor Senator with the time required on the quorum call, to which he is entitled under the Constitution. He wants a quorum call to get the Members in here to hear his argument before they vote on his amendment. Yet the Senator from Alaska is going to deprive that Senator of his right to ask for a quorum call.

Mr. STEVENS. Will the Senator yield again?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. If I entered into a time agreement with the Senator from West Virginia right now on the first bill to come up and we said it was 2 hours on the bill and 1 hour on one amendment, and no other amendments would be in order, the time to be equally divided, the Senator from West Virginia would have 3 hours and when that time expired we would come to a vote. Why cannot we devise an amendment to rule XXII which would say in effect, the same thing, that every Member is entitled to a time agreement of 1 hour?

If the Senator is disturbed by the total amounts of 10 hours, let us reduce it. We can reduce it to 6.

Mr. ROBERT C. BYRD. We do not have time agreements entitling every Member to a certain amount of time.

Mr. STEVENS. I understand that, we do not. But we are seeking that. We are seeking a rule that assures everyone who demands it—he or she still have to ask for it—that there is a time agreement waiting there if they want to trigger it,

that they can get the time. It assures them that if cloture is voted they will have an opportunity in any event—and I mean in any event—to be recognized for a portion of the postcloture procedure.

Let me ask the Senator a question: Can the Senator look every Senator in the eye and say if we vote Senate Resolution 61 that under every possible contingency every Member of the Senate would be entitled to recognition, would receive recognition, and could use up to 1 hour?

Mr. ROBERT C. BYRD. Of course not. I have not said he could use it up.

Mr. STEVENS. That is the existing rule.

Mr. ROBERT C. BYRD. I have not said that.

Mr. STEVENS. But the existing rule gives us that right.

Mr. ROBERT C. BYRD. But the existing rule has been so abused it does not exist.

Mr. STEVENS. Some people have abused it, but the majority leader has not, and that is the problem.

Mr. ROBERT C. BYRD. The Senator talks about a time agreement. A time agreement can be objected to by only one Senator.

Mr. STEVENS. I understand that. But let us build into the postcloture procedure a concept of an entitlement, a right of a Senator to a specific allocation of time that cannot be taken away from him, but anything he does is chargeable against that time, and that is what we are working for.

Mr. ROBERT C. BYRD. That is the point I am making. A Senator has used all of his time, or under the proposal by the distinguished Senator from Alaska he has yielded the time back to the Chair, he has no time left. He has deprived himself of the right to suggest the absence of a quorum. He has no time. He cannot ask for the yeas and nays on a rollcall vote. He has no time. He has to get someone else to ask for the yeas and nays.

So the Senator talks about the rights of Senators. With all due respect, I feel that his proposal would deprive Senators of their rights.

Mr. SARBANES. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. Could I have the attention of the Senator from Alaska, because I think we are trying to work through to something?

It is a difficult situation. Let me make this hypothetical.

Ninety-five Members of the Senate are of one persuasion and only five are of other persuasion. Now, if the 95 do not respond to the request that they yield time, or anything of that sort, the minority of 5 under the Senator's proposal is limited to 5 hours.

Is that correct?

Mr. STEVENS. That is right.

Mr. SARBANES. Under the proposal of the leader they would be limited to 30 hours at a minimum. Is that true?

Mr. STEVENS. The existing rule says that no Senator is entitled to more than 1 hour. That is not changed. One hour of debate——

Mr. SARBANES. That is 1 hour of debate time. That is not an hour that counts a rollcall or an amendment or any other procedural matter. So they have the opportunity with 1 hour of debate time to call up a number of amendments, a whole host, and easily, easily, use the 30 hours minimum that is now provided as Senate Resolution 61 is written.

Is that not correct?

Mr. STEVENS. That, technically, is correct, if we assume they get recognized and assume the time has not been reduced, they could use the 100 hours, he could use the——

Mr. SARBANES. And if the time had been reduced, they would get a minimum of 30, where, under the Senator's proposal, the most they could get is, leaving aside the yielding question for the moment, the most they could get would be 5 hours. That is most minority——

Mr. STEVENS. That is why we put in the yielding provision, of course.

Many times, I have seen the situation where they had this group which has support, but the other people are unwilling to participate in the debate.

The difficulty is, Who is leading the charge? I think that Senate Resolution 61 presumes that only those people who are in the position of leadership, who are the floor managers of the bill, are entitled to time.

The person who is offering an amendment to a bill, who is opposing the managers of the bill, opposing the leaders, has no entitlement at all.

Now, I find myself in the strange position of arguing for the rights of the people, and I cannot remember a time, really, when I have not been out of sympathy with those people who were conducting something like the gas filibuster, postcloture filibuster. But, again, I had great admiration for their determination to protect their point of view.

Now, we have to write a rule that protects their rights; but, even further than that, protects the rights of Senators in situations such as we are going to be in when the Alaska lands bill comes out.

Mr. SARBANES. Let us take the Alaska lands bill. We are trying to find something here that is reasonable.

I submit to the Senator from Alaska that his opportunity on the Alaska lands bill to offer a series of amendments to that legislation, if that is what he chose to do because of his particular keen interest in that legislation and his knowledge of the problem, that his opportunity to try and shape that legislation in the postcloture situation would be greater under Senate Resolution 61 than under the proposal which the Senator is now offering, because he could put up his amendment, explain it, take a few minutes in the course of debate, that uses up his hour under Senate Resolution 61, then get a vote on it. It does not come out of his hour, so he has an opportunity to go through a sequence of amendments with respect to his Alaska lands bill without having that counted as directly against his time, as would be the case under the proposal that he has now put before us.

Mr. ROBERT C. BYRD. The Senator from Maryland is correct.

The Senator from Alaska gives each Senator an hour, a very magnanimous gesture, and turns right around and charges that Senator with every quorum call, every rollcall vote, until he "yields the floor."

So he gives it and he takes it away.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Does the Senator from West Virginia yield the floor?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. Is the Senator from West Virginia yielding the floor completely?

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. I thank the Senator.

The Senator from Idaho.

Mr. McCLURE. Mr. President, I assumed when the Senator from West Virginia took his chair that he had yielded the floor. The solicitude of the Chair is commendable, but I think hardly necessary. The Senator from West Virginia is very capable of protecting his own rights, and he usually does so without the necessity for that solicitude on the part of the Chair.

I only make that as a minor footnote to the commentary of the day.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator.

Mr. ROBERT C. BYRD. As the Senator knows, the Chair is not supposed to speak quite at length. So in deference to the Chair, may I say that I am delighted to see a new Member of this Senate, the Senator from Montana who is presiding over this Senate, with the degree of skill and efficiency and fairness that are so rare as a day in June. I venture that the day will come when the Senator from Montana who now presides over this Senate would be just as fair in protecting the rights of the distinguished Senator from Idaho who now out of fairness to me has yielded to me in order that I might say something on behalf of this.

Mr. McCLURE. Mr. President, I appreciate the comments of the Senator from West Virginia, his usual genial self.

I was only commenting that there are some Members of the Senate who from time to time are constrained to observe that the equality that is extended under every rule does not necessarily extend to all 100 Senators. But the burdens and responsibilities of the majority leader sometimes lead to a more tender solicitude of the majority leader's concerns than that of the other 99. Perhaps that may be as it should be.

I just wanted to put a little footnote in there that, indeed, it was observed here today.

I meant no criticism of the occupant of the chair at all. I am glad to know that a new Member of the Senate is that much concerned about the Senator from West Virginia, but I did want to observe that I never before noticed the necessity to protect the Senator from West Virginia

because he is so skillful in protecting himself that that really is not necessary.

But I did want to make a couple of brief comments about the concerns that have been raised both by the Senator from West Virginia and the Senator from Maryland about the pending amendment offered by the Senator from Alaska.

A real problem, it seems to me, comes down to this: If we are going to insist upon the rigidity of the cap of 100 hours, then there have to be some offsetting guarantees of individual rights within the 100 hours.

What the Senator from West Virginia is suggesting is that we must have the rigidity of the 100 hours without any protections. The Senator from Maryland said to the Senator from Alaska: "You can offer a whole series of amendments under Senate Resolution 61 as written." As a matter of fact, you cannot. You can offer two, and then you are done, unless no one else wants recognition at that point. If, as a matter of fact, no one else wants recognition at that point, you may be recognized in order to offer further amendments, but not if someone else wants to offer amendments at that point.

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

Mr. McCLURE. I yield.

Mr. SARBANES. I am trying to think about some hypothetical situations and am trying to address the problem. I think no one is insensitive to the need to protect the rights of a minority, both in the precloture and in the postcloture periods.

When we say "minority," I think it is fair to say that in most of these instances we are talking about a philosophical minority and not a party minority. It has been my experience, at least since I have been here, that in all these instances, without exception, it has been a majority that has encompassed both sides of the aisle and a minority that has encompassed both sides of the aisle.

Mr. McCLURE. I say to the Senator from Maryland that in the only two instances in which there has been what might have been called a filibuster by amendment, they were by Members of the majority party, then and now.

The first debate that came up under the 100-hour cap, as has been observed before, was met by such a tactic by Senator Ervin, who was then a Member of this body. The second and last time for a filibuster by amendment was by Senators Abourezk and METZENBAUM, on the natural gas bill. Remember, those are the only two times there has been any so-called filibuster by amendment.

Mr. SARBANES. Let us take the hypothetical——

Mr. McCLURE. Let me observe, before yielding further, that there have been only two times in the entire history of the postcloture filibuster, since the 100-hour cap was invoked, in which there was the seriatium calling up of amendments, with the minimum time being used and then the maximum time being used in some other manner. That has been done two times, the first time by Senator Ervin, when he called up amendments in the very first debate under the 100-hour cap; and the only other time was when the majority leader, the distinguished Senator from West Virginia, called up amendments in seriatim in order to get them ruled out of order. Those are the only two occasions on which that hypothetical possibility has occurred. Although we hear a great many references to the abuses of that practice, it has occurred only twice, as a matter of fact.

I yield to the Senator for a question.

(Mr. HEFLIN assumed the chair.)

Mr. SARBANES. Let me address the last point briefly and go back to the hypothetical with which I want the Senator to deal.

I do not think it is an altogether accurate painting of where we are to look back and say that we have had a postcloture filibuster by amendments in just a few instances. If that procedure is to be allowed to continue under the rules, then I think there are a great many Members of this body who, when a particular substantive issue is involved in which it could work to their advantage, will feel much freer than they have felt in the past to invoke that technique.

In other words, what I am saying to the Senator is that if we do not address it here in an effective way, it is my prediction that the use of that technique will increase greatly. In fact, Members to some extent would almost have a responsibility to use that technique, if it were sanctioned under the rules and available to them, if it were not addressed here. If some Members are going to use it effectively, it almost becomes beholden upon all Members.

Mr. McCLURE. I agree that it might invite its use further, and that is why we have been bending our best efforts to try to find a way that will set a more fair rule to protect the rights of all Members.

However, we have to recognize that every time we try to make one portion of the rule more rigid in its application and less flexible, less subject to the needs of all Members, there comes then an automatic response, first, of demanding some protections in that rule so that it will not be utilized to wipe their rights away. Second, in the past, it always had led to attempts, usually successful attempts, to find some other way to use the rules indirectly to accomplish what the rules will not now permit directly.

Mr. SARBANES. I think that is a very perceptive observation on the part of the Senator and one to which we should be very sensitive as we address this problem.

The reason why I do not think it is so simple is this: Take the Alaska lands bill, about which the Senator from Alaska spoke. Suppose that comes forward, and let us assume that perhaps only two Senators, the two from that State, have a particular keen interest in the matter and are anxious to propose amendments, and so forth.

Mr. McCLURE. Make that assumption for the sake of the argument, not because I think it is valid, but because I think it will make the point.

Mr. SARBANES. In any event, under his approach, which is the 1-hour guarantee, those two Senators can use up their 2 hours very quickly.

Mr. McCLURE. Or they could, if they wished, spread that 2 hours over a great variety of different amendments.

Mr. SARBANES. But every time an amendment comes up and they call for a rollcall, that time is going to come out of the time on their amendment.

Mr. McCLURE. They do not have to call for a rollcall. They can ask for a voice vote or a division.

Mr. SARBANES. I assume that that time will be charged against them.

Mr. McCLURE. The voice vote and the division would be, if that is all that is required.

Mr. SARBANES. You would not even need the majority. If they are fighting a minority position and the other side can bring in sufficient Senators to carry the voice vote or the division vote, they either will lose their amendment or will have to go to a rollcall vote.

Mr. McCLURE. That is correct.

Mr. SARBANES. In order to be able to get everyone here to enable them to carry their amendment.

Mr. McCLURE. That is correct.

Mr. SARBANES. Let us assume they are fighting the committee and that the committee gets its people here, along with some of their friends. It is well short of a quorum of the Senate, but it is enough, in the debate context, to carry either a voice vote or a division vote.

On the other hand, perhaps on a rollcall vote, they could prevail on at least some of those amendments. So they are going to be forced at that time, if they go to a rollcall vote in order to try to prevail, to have it come out of their time.

Mr. McCLURE. That is a very hard judgment they would have to make at that time, as to how to use their time.

Mr. SARBANES. They are doing it within a 2-hour limit, leaving aside the yielding question. Under that approach, they are doing it within a 2-hour period—everything comes out of it.

Mr. McCLURE. That is correct.

Mr. SARBANES. Under Senate Resolution 61 in its present form, the minimum is 30 hours; and if these two Senators want to propose a series of amendments, since the voting time on the amendments, under Senate Resolution 61, would not come out of the 1 hour they have been guaranteed for debate time under the rule, they would be in a position to try to shape the legislation with perhaps a series of amendments, getting their rollcall votes on them, being in the position of protecting the interests of their State, doing it within the overall cap. In effect, under that hypothetical situation, they really would get more time to assert their position than under the proposal that has been made.

Mr. McCLURE. The Senator is presuming that the remainder of the Senate desires to let them have that time.

Mr. SARBANES. Yes; I am making the assumption here that the only people really interested in amending the legislation are the two Senators from that State, who perceive what has come from the committee as being disadvantageous to their State, and therefore they are seeking to change it in order to defend State interests.

Mr. McCLURE. Let us assume that

there are within the body one or two or a half-dozen people supporting the committee position and resisting the adoption of the amendments; that they desire that the amendments not be adopted; that, therefore, the best way to assure that they not be adopted is to make sure that they never get voted on.

First of all, the two Senators from Alaska, in that instance, would have the opportunity under Senate Resolution 61 to offer their two amendments and, if the other could then get recognition in that sequence, he could then offer his two amendments, and then they are out of business. If there is anyone else who wants to offer an amendment, under Senate Resolution 61, all of the remainder of the time could be consumed utterly before they were ever again entitled to recognition to offer an amendment.

Mr. SARBANES. That is right. Senators would have to go around to see. In other words, if every other Member of the Senate came in to offer an amendment, they would not get a chance then or may not get a chance, depending on how long it took, to come back and offer more than the two.

Mr. McCLURE. That is correct.

Mr. SARBANES. But with an hour, they do not get a chance to offer much more than the two anyhow if they get rollcall votes on them. So that is not much of a difference and the likelihood of what we have just described happening under Senate Resolution 61 is quite minimal. The real likelihood is what we are going to have is a few people in this instance because of the particular State interest, in other instances because of their particular focus on the issue who are anxious to try to amend the legislation, the postcloture period in a significant way.

Mr. McCLURE. I will indicate that in this particular issue I know of other Members who have just as strong a feeling about the Alaskan lands question on the opposite side of the issue as do the two Members from Alaska. And I do not think one can at all suggest that all the rest of the Members are going to sit by quietly so that these two Senators can have their opportunity to amend the bill their way with no interference at all from the Senators who do not want it amended at all.

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

Mr. McCLURE. Let me, if I may, respond to the other portion which I think is important.

Mr. SARBANES. Let me say on that point.

Mr. McCLURE. Go ahead.

Mr. SARBANES. I am not suggesting that, and all I am saying is that in thinking about it we have to perceive the two Senators with their 2 hours under one proposal and those same two Senators within the 100-hour total cap period, or if it is brought down to a minimum 30-hour total cap period, and then make some judgment under that arrangement how much of that time would they really be able to use in terms of proposing their amendments in a situation in which they can get rollcall votes that would not be charged against them on time; whereas, under the alternate proposal that has now been put forward that time would be charged against them.

Mr. McCLURE. Let me say to the Senator, however, that he is trying to make an assumption of Senate Resolution 61 with no changes as against the amendment offered by the Senator from Alaska with some changes because the amendment as offered by the Senator from Alaska allows the assignability of time.

Let us take that other hypothetical of the two Senators from Alaska carrying the time and under this proposal they would be allowed to be assigned up to 9 additional hours by other Members, and the two Senators from Alaska would then have 20 hours to offer a series of perfecting amendments which is certainly a superior opportunity to offer a series of amendments than that which is guaranteed to them under Senate Resolution 61. So I think if one looks at the totality of Senate Resolution 61 and of the totality of that which is offered by the Senator from Alaska the opportunities for Senators who desire to seek some substantive serious amendment in the pending legislation are better guaranteed under the amendment than they are under Senate Resolution 61. To separate out of that, to take away from that the right to yield time, certainly we change the nature of the amendment just as if we take away some of the rights that are guaranteed under Senate Resolution 61. We can make the rights of an individual Member or two Members look very different under Senate Resolution 61.

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

Mr. McCLURE. I yield.

Mr. SARBANES. I understand the Senator was in the group that helped to formulate the proposal that was offered today by the Senator from Alaska, if I am correct.

Mr. McCLURE. The Senator is correct.

Mr. SARBANES. Once a person gains the floor under the Senator's proposal, could he then hold the floor until he has used all of his time?

Mr. McCLURE. Not necessarily. He could use as much time as he desired until he yielded the floor, but once there was a final disposition of the matter which was then pending I suspect——

Mr. SARBANES. Is it within his control if he does not choose to yield back once he gains the floor to hold it until he has used up all his time?

Mr. McCLURE. I think that once the matter that was then pending was finally disposed of the Chair would then have to recognize some Member of the body. But that gets back to the question that we have been debating here for the last hour and a half, or so, raised by the Senator from West Virginia in regard to whether or not a Senator yields the floor at the time there is a procedural motion with respect to the pending amendment. I think it lies somewhere between those two extremes.

Mr. SARBANES. It is the Senator's position that a Senator does not yield, is that correct? Otherwise there is no way to run the clock against him.

Mr. McCLURE. A Senator does not yield the floor so far as the accountability of time is concerned on the matter which is then pending, but once that matter which is then pending is disposed of it would simply be a matter of recognizing someone to offer another pending matter. So I do not think it automatically follows that if a Member has his 10 hours that he can hold the floor for 10 hours to the exclusion of every other Senator or a whole series of things, but he certainly has the opportunity to do so in a way which Senate Resolution 61 would not permit him.

I was a little intrigued earlier in the argument against the amendment by the Senator from West Virginia when he said by the extrapolation of some mathematics it might be possible to offer as many as 3,600 amendments, and he found that reason to object to the amendment of the Senator from Alaska.

Several minutes later he was arguing against the Senator from Alaska because it would limit him to four amendments at the same time that Senate Resolution 61 offered by the Senator from West Virginia would limit them to two amendments.

It seems to me that we should really try to determine what it is we are trying to do. If we are going to have a rigid cap, which the Senator from West Virginia says is most essential, if I judge his discussion here today and and the discussion we have had at various times in the past on this subject, that is the one thing about which the Senator from West Virginia feels most strongly. If we are going to have a rigid cap, then it seems to me we have to find a way by which we can guarantee to an individual Member of this body that he has some rights that he can exercise at some time during that period of time.

The Senator from Alaska has suggested a means by which that can be done even though it might have the very, very slight theoretical potential for some kind of very modest extension of the 100-hour period. That is far more theoretical in its possibility than is the theoretical possibility that the 100 hours could be used up.

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

Mr. McCLURE. I am happy to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, it seems to me this discussion convinces me that we are going to have to find some way to modify my amendment to meet some of the objections raised by the Senator from West Virginia and the Senator from Maryland.

Let me make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. I had unanimous consent that it would be in order to bring the amendment up. Do I need unanimous consent now to have it withdrawn?

The PRESIDING OFFICER. The Senator is correct. Unanimous consent is required.

Mr. STEVENS. Maybe we could, under that circumstance, get agreement to vote tomorrow morning on this amendment and allow it to be set aside until a time

certain tomorrow and then allow the Senator from New York, who wants to raise his amendment dealing with preferential recognition on points of order in the postcloture period, to raise his amendment this afternoon.

I do not know what the desires of the majority leader might be in that regard, but I think we are going to have to try to work something out and see if there might still be a possibility of a consensus we could reach with regard to the concept of an individual Senator having a right to time in a postcloture period. So I think we need overnight to think about that before bringing this to a vote.

It is my understanding we would be in agreement to bring this to a vote at 10 o'clock tomorrow morning.

Mr. SARBANES. Mr. President, if the Senator from Alaska will yield, before I enter into such an agreement obviously we should hear from the majority leader as to whether he wishes to schedule that at 10 a.m. Perhaps we should call a quorum, and then I will ascertain that.

Mr. STEVENS. Since it takes unanimous consent to have the amendment be in order, and I already have that, I would like to have it remain so under those circumstances, but I would like to be able to get an agreement that we could call up another amendment and have the vote on this one tomorrow. I recognize we will have to consult with the majority leader about that, but that is my feeling now that we should see if we can work on this overnight and get to the question of these other amendments tonight, if possible.

Mr. SARBANES. I understand the majority leader will be here shortly, and I suggest that either the Senator continue his discussion if he chooses to do so on this amendment or that there be a quorum call and temporarily await his arrival.

Mr. STEVENS. Mr. President, let me ask is it in order to modify my amendment now without unanimous consent?

The PRESIDING OFFICER. It would require unanimous consent to modify.

Mr. STEVENS. At the suggestion of the Parliamentarian, Mr. President, I ask unanimous consent that it be modified so that it read: "On page 2, line 6, after the word 'begins.'" It is a technical amendment modification and I ask unanimous consent that such modification be made now.

I will tomorrow morning ask for further modification of the amendment before it comes to a vote.

Mr. SARBANES. Reserving the right to object to this modification, could we find out what it is exactly? I am sorry, I was not listening.

Mr. STEVENS. It is a suggestion made by the Parliamentarian to correct a technical defect. I asked unanimous consent that that modification be made at this time. Tomorrow I will make further modifications.

Mr. ROBERT C. BYRD. What is the Parliamentarian's suggestion?

Mr. STEVENS. This amendment makes certain that the text of the amendment shows precisely where the striking commences on page 2 through page 3. It says, "On page 2, line 6, after the word 'begins' strike everything through page 3," and et cetera.

The PRESIDING OFFICER. Is there objection to the modification of the amendment? Without objection, the amendment is so modified.

Did the Senator from Maryland reserve the right to object?

Mr. SARBANES. No.

Mr. STEVENS. At this time, if I might say to my good friend from West Virginia, we are working on a modification to try to meet some of the objections raised by the Senator from West Virginia and the Senator from Maryland. I hope we will have an agreement to put this amendment aside until tomorrow, and to then vote at a time certain, that we could have a vote on it at a time certain, and to permit the Senator from New York or the Senator from Idaho to proceed with other amendments which they have at this time.

Mr. ROBERT C. BYRD. What would the Senator suggest?

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I think if we could arrange to have a vote on this in the morning at 10 o'clock, provided the majority leader intends to convene in time to accommodate that, that we probably could obtain that consent. I am not certain again but I would hope we could.

Before the majority leader responds, if he would yield further, might I inquire, it is now well into the afternoon, and might I inquire if the majority leader does intend, in fact, to come in fairly early tomorrow?

Mr. ROBERT C. BYRD. I would like to come in at 10 o'clock, may I say to the distinguished minority leader and, if possible, if we could get a time agreement today, I would like to finish the action on this measure tomorrow at a given time, in which event I would expect to go over until Monday.

Mr. BAKER. I do, too. I am sure the majority leader will confirm that he and I had conversations in the course of today looking into the possibility that we might arrange a time certain to dispose of this so-called postcloture part of this controversy and, frankly, I had hoped we would have a number of votes, rollcall votes. I see a number—I do not see them now, but during the course of the day I have seen a number—of our Members here directly as a result of my suggestion that they be here with the possibility of a rollcall vote, and hoping we could break the ice and get on with this matter. But it appears less likely that we will have a rollcall, and I understand the majority leader thinks we ought to stack any rollcalls that would be asked for until later, until tomorrow.

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

Mr. BAKER. I do not have the floor.

Mr. McCLURE. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Because it also deals with putting it aside and when it would be called up tomorrow.

Do I understand that we will not have the opportunity today to get votes on amendments which could be offered?

Mr. ROBERT C. BYRD. We could have voice votes or division votes or put rollcall votes over until tomorrow.

Mr. McCLURE. Is it the intention of the majority leader that we not have any rollcall votes on this matter this afternoon?

Mr. ROBERT C. BYRD. Personally I would like to have had votes, but it is now 4:30 and a good many Members have gone home because of the weather, and I would rather not have rollcall votes this afternoon.

Mr. McCLURE. Mr. President, will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. I have no disposition to delay the solution of this, as the Senator knows. I am as anxious as anybody in this body to get this pinned down and get it behind us. It has already consumed far more time than the Senator from Idaho would have debated one single subject, but because of the weather we did not meet on Monday or Tuesday, and we have not had the opportunity to have any rollcall votes on Wednesday. I think we are beginning to get into a very difficult time constraint, at least the possibility of it. I do not think there are endless numbers of amendments, but there are some, and some variations upon it, that various Members might wish to offer.

Mr. BAKER. Mr. President, if the majority leader would yield to me in that respect for just a moment——

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have some Members on this side, who, frankly, are not so interested in being here for the final vote on passage as they are in certain amendments that have to be disposed of before they would feel free to return to their States or keep other commitments.

So it appears now that until we can get some of these amendments out of the way—not many but a few—it is going to be very difficult for me to be able to try to arrange with the majority leader for a time certain to dispose of the postcloture part of this resolution.

I think at this point it might be well to take one bite out of the pie and see if we can arrange a time in the morning shortly after we convene to dispose of this amendment, and then after that to see where we are and how we might proceed with an arrangement to dispose of the postcloture part of this matter, either later in the day on Thursday or, if necessary, on Friday, and I know the majority leader had given some thought to going over, say, from Thursday to Monday as a possibility. But in all candor it might be necessary for me to ask for a session on Friday to accommodate some of the requirements I alluded to.

Now I think we can agree to come in in the morning and have a time to vote on this amendment, and I would suggest, if the majority leader considers 10 o'clock as a time for convening, that we consider 10:30 for a vote.

Mr. President, if the majority leader will yield, I have a very tight time problem with one Member on this side. I wonder if the majority leader would con-

sider coming in, say, at 9:45 and permitting a vote on this amendment, then at 10 o'clock.

Mr. ROBERT C. BYRD. Yes; that would be agreeable.

Now, it is understood that we are talking about this amendment, the amendment by Mr. STEVENS.

Mr. STEVENS. Mr. President, if the majority leader will yield, I would ask unanimous consent that I have an opportunity to seek to modify the amendment just prior to the vote, but not substantially. For instance, I am going to delete the last paragraph, which is redundant to a provision already in Senate Resolution 61, and I would hope we could reduce that time that would be transferred, up to 10 hours. We have 10 hours, and we are trying to find ways to reduce that to 6. We are looking for greater accommodation areas in this same basic format of the amendment. I would like to have an opportunity for some minor changes in the amendment before the vote takes place tomorrow morning.

Mr. ROBERT C. BYRD. The Senator understands it would require unanimous consent to get those modifications.

Mr. STEVENS. I do understand that. I hope that will be no problem, but I understand.

Mr. ROBERT C. BYRD. I do not want to interpose objections if the modifications are such as I feel we can accept.

Mr. STEVENS. I may try to make them this afternoon, if we have the opportunity.

Mr. ROBERT C. BYRD. I just wanted to be sure that we all understood that in agreeing to vote on this proposed amendment tomorrow, or in relation to the amendment, having a vote at 10 o'clock, any modifications would have to be by unanimous consent, because otherwise those of us who agree to a vote on this proposal at 10 o'clock tomorrow could be buying a pig in a poke, not knowing what the modifications would be. So we are protected by the fact that it would require unanimous consent for such modifications to be made.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, two things occur to me. First, I would hope that the convening hour of the Senate would be arranged so that there was 15 minutes on this measure before we proceeded to a vote; and second, it is my understanding that one Member on this side requests that the vote occur on the amendment, and not on a motion to table.

Mr. ROBERT C. BYRD. Of course, I note a number of staff people nodding their heads in reference to that.

Mr. BAKER. The person I have reference to is here representing the State of Idaho. I will not further identify him, except to say that he stated he would prefer that, I believe on behalf of another Member.

Mr. ROBERT C. BYRD. The Senator asks that I give up my normal right to move to table?

Mr. BAKER. On behalf of Mr. HATFIELD, who does want an up or down vote on it.

Mr. ROBERT C. BYRD. Let us agree to the motion to vote on it at 10 o'clock, and let me think about it in the meanwhile. I might very well agree to an up or down vote.

Mr. McCLURE. If we might, then, reserve the right to make a motion on that subject at least eliminating the other 98 or 97 Senators from that proposition, I think that compromise might very well be agreeable.

Mr. BAKER. I do not understand. Will the Senator repeat that?

Mr. McCLURE. That there will be an up or down vote unless the majority leader exercises the right to offer a different motion with respect to the amendment.

Mr. BAKER. That sounds better than nothing, I suppose.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

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 9:45 a.m. tomorrow.

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

ORDER FOR VOTE AT 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 10 o'clock a.m. tomorrow a vote occur in relation to the pending amendment by Mr. STEVENS.

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

Mr. ROBERT C. BYRD. Does the Senator want to get the yeas and nays now, in case we vote up or down? It might be difficult to get them in the morning.

Mr. STEVENS. Yes, that is agreeable.

Mr. ROBERT C. BYRD. 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.

Mr. BAKER. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Is it the majority leader's intention, then, to make any provision for the preliminary proceedings of the Senate, such as morning business, special orders, or anything that might consume any part of that 15 minutes?

Mr. ROBERT C. BYRD. I have two requests for recognition in the morning, and each wants 15 minutes.

SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. I ask unanimous consent that following the prayer tomorrow, the Senator from Missouri (Mr. EAGLETON) be recognized for 7 minutes, and that he be followed by the Senator from Wisconsin (Mr. PROXMIRE) for 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, we have another request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. EAGLETON, Mr. PROXMIRE, and the Senator from South Dakota (Mr. PRESSLER) each be recognized for not to exceed 5 minutes after the prayer and the approval of the Journal tomorrow.

Mr. BAKER. Mr. President, reserving the right to object, the problem I have in this respect is that Senator HATFIELD, who is the ranking minority member of the Rules Committee, simply has to have a vote on this amendment by 10 o'clock, otherwise we would have to rearrange the whole schedule; and I would hope we could have 15 minutes prior to the vote for debate. I wonder if we could move the convening time back.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW, WITH SPECIAL ORDERS AND DEBATE TO FOLLOW, AND A VOTE 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 9:15 a.m. tomorrow, which would give each of them 15 minutes.

You want 15 minutes for debate on this?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Does the Senator suppose each of these Senators would want 15 minutes? I take it Senator EAGLETON would. Senator PROXMIRE may or may not. Could we take a chance on 10 minutes for each of the Senators, and allow 15 minutes for debate on this amendment?

Mr. BAKER. I will if you will.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate, when it completes its business today, stand in recess until the hour of 9:15 a.m. tomorrow; that after the prayer and the recognition of the majority leader to deal with the Journal, Mr. EAGLETON, Mr. PROXMIRE, and Mr. PRESSLER each be recognized for not to exceed 10 minutes; that there then follow 15 minutes of debate on the amendment by Mr. STEVENS, to be equally divided between the Senator from Alaska (Mr. STEVENS) and the junior Senator from West Virginia (Mr. ROBERT C. BYRD), and that a vote then occur in relation to the Stevens amendment; but that in any event the vote in relation to the amendment by Mr. STEVENS occur no later than 10 a.m. tomorrow.

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

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that if any Senator wishes to call up an amendment to the resolution at this time, it be in order to set aside the pending amendment by Mr. STEVENS and let such Senator call up such amendment.

Mr. STEVENS. Mr. President, reserving the right to object, and I hope my good friends will not object, I would like to make the request for two modifications of that amendment, and send those

modifications to the desk, prior to setting it aside, if that meets the majority leader's desire. I would like to see the amendment changed to provide that no Senator be yielded more than 5 additional hours, and ask that the last paragraph be deleted. If the Senator will withhold his unanimous-consent request, I ask unanimous consent that the amendment be so modified at this time.

Mr. ROBERT C. BYRD. Mr. President, I object to the modification at this time. I may not object tomorrow morning.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I reserve—I withdraw that objection. I certainly have no objection to the latter part, because that part of the amendment would be redundant to the language in my own resolution.

Mr. STEVENS. I thank the majority leader. I renew the motion to modify the amendment in that manner, and I send a copy to the desk and ask that it be so done.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. The Senator is referring to——

Mr. STEVENS. To delete the last paragraph of the amendment as modified. I send it to the desk. I will renew my motion to change the word "10" to "6" in the morning.

Mr. ROBERT C. BYRD. So the Senator at the moment is merely asking for the second half which, in reality, is duplicative of the language in the resolution?

Mr. STEVENS. That is correct.

Mr. ROBERT C. BYRD. I have no objection to that portion.

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

The amendment, as modified further, follows:

On page 1, line 6, following the word "invoked," insert the words: "which time is the aggregate of the one hour of time to which each Member is entitled".

On page 2, line 6, after the word "begins." strike everything through page 3, line 18 and insert in lieu thereof the following:

The last paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking out the first sentence and inserting in lieu thereof the following:

"After cloture has been invoked, no Senator shall be entitled to use more than one hour on the measure, motion, or other matter pending before the Senate, the amendments thereto, and motions affecting the same, except as hereinafter provided.

"A Senator shall be charged with the use of all time consumed after he is recognized and until he yields the floor, and any rollcall votes and quorum calls he requests except the time consumed in one quorum call immediately prior to a vote on final passage. A Senator may yield any of his remaining time to another Senator or may yield it back to the Presiding Officer, in which case the hours of consideration shall be reduced by the time so yielded back, and it shall be the duty of the Presiding Officer to keep the time of each Senator. No Senator may be yielded more than nine additional hours. If unanimous consent is requested to dispense with the remainder of a quorum call and an objection is heard to the request, the time consumed in the remainder of that quorum call is charged against the time of the objecting Member. If the objecting Senator does not have at least ten minutes remaining, he may not object to dispensing with the further proceedings under the quorum call. If the time required to call a quorum exceeds the balance of the objecting Senator's time, such time shall not be charged against the one hundred hours.

Mr. STEVENS. May I inquire, Mr. President, as the amendment is printed and put on the desks tomorrow, it will be in the modified form?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. I ask unanimous consent that the resolution placed on the desks tomorrow show the changes which have been made today by virtue of amendments, with language that has been deleted shown in stricken-through type and language which may have been added shown in italics, and that the clerk may be authorized to make technical and clerical corrections.

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

Mr. STEVENS. May I inquire—reserving the right to object, I am sorry—will that be considered original text for the purpose of any further amendment?

Mr. ROBERT C. BYRD. I have not yet agreed to that request, but, as I say, I may very well do that.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Alaska will be laid aside.

UP AMENDMENT NO. 18

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina, Mr. HELMS, proposes an unprinted amendment No. 18.

On page 1, after line 3, insert the following:

"Between the invoking of cloture and the vote on final passage of the measure, motion, or other matter subject to cloture, consideration of such measure, motion, or matter shall be limited to not more than 8 hours per calendar day."

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I shall not consume time by discussing this amendment at length. It speaks for itself.

As I mentioned to my good friend, the distinguished majority leader in one of our conferences in connection with this resolution, I believe the Senate would be well served to limit the time devoted to an issue on which cloture has been invoked to 8 hours per calendar day. A prime reason is the impact upon the health of Members, particularly the most conscientious ones. I mentioned to several of my colleagues during the course of last session that I was concerned about the severe strain on our late dear friend Jim Allen, the distinguished Senator from Alabama, during many debates in this Chamber. He was only one of four of our colleagues who are no longer with the living.

Moreover, there is the question of the younger Members of the Senate who have families and young children, and who so seldom have an opportunity to spend an evening with their families. I believe all in all that if the Senate would agree to devote no more than 8 hours in any given day to the consideration of a matter on which cloture has been invoked, comity in the Senate would be increased, more participation would result on the part of Senators, and, in general, it would be a wholesome development.

I know the argument on the other side, that this proposal, to some degree, may appear to be tying the hands of the majority leader—which is certainly not the intent of the amendment. But I think it is an entirely reasonable request, and I do hope that the Senate will approve of it.

I am not going to spend any more time in discussing the amendment because, as I said at the outset, it does speak for itself. I gather it has considerable appeal. Needless to say, I hope it has sufficient appeal to be approved tomorrow.

I do not think we have enough Senators present to obtain a sufficient second, but I would advise the Chair that I do want a rollcall vote on this amendment tomorrow.

I yield the floor.

Mr. SARBANES. Mr. President, I wish to briefly speak against this amendment. Indeed, I will only make two or three observations.

First of all, the Senate on many days spends well in excess of 8 hours considering legislation pending before this body in a precloture time. In other words, it is necessary in handling legislation to take more than 8 hours in one day in order to work at it, and that is legislation on which 60 Senators have not yet invoked cloture. Is the Senator's amendment directed to that period only, to postcloture?

Mr. HELMS. Yes. Obviously, because all that is before the Senate in Senate Resolution 61 concerns postcloture. My amendment specifically limits itself to the period "between the invoking of cloture and the vote on final passage."

Mr. SARBANES. So the Senator would limit any consideration of a measure in a postcloture period to 8 hours per day?

Mr. HELMS. Except by unanimous consent, I would say to the Senator. The proposed amendment, I say to my friend from Maryland, contemplates that there may be a need for time on other legislative matters. So I am not calling for an 8-hour day. I am saying just an 8-hour limitation per day on the matter on which cloture has been voted.

Mr. SARBANES. The matter, of course, may be a matter on which we need to move to a resolution. Do I understand the Senator's amendment? The point made is that even in a precloture period 60 Members have not voted to cut off debate. Any measure we are considering involves an amendment process after cloture has been invoked.

In order to invoke cloture we require 60 Members, three-fifths of all those duly sworn as Members of the Senate. So we are in a period when 60 Members of the Senate have said, "Well, now, we think

we ought to start limiting the time and move toward a decision."

Even in the precloture period with respect to a great deal of the legislation it is necessary to spend more than 8 hours a day in considering a matter.

In one sense it is contradictory, almost, to use an 8-hour limit in postcloture when we have an unlimited period in precloture. It really would make more sense logically, though even then there would be difficulties connected with it, to have an 8-hour limit before cloture rather than after. There is more of an argument for an extended time after cloture, because three-fifths of the Senators have voted to move ahead on the measure.

Second, 8 hours a day with a 100-hour cap is 12½ days of consideration once cloture has been voted.

Now, cloture is difficult to come by, as our experiences here have shown. To have frozen in the absolute requirement, precluding unanimous consent, I would say to the Senator, that is tantamount to the absolute requirement that we would run then for 12½ days after cloture has been invoked.

That is almost 3 weeks of the Senate's time. I think it is unreasonable. I think that the majority leader has to have flexibility in the scheduling of legislation, and that there is, really, a strong argument that once cloture has been invoked, that the Senate really ought to spend very long days, indeed, on the matter pending before us.

In any event, whether that should or should not be done is a matter that can be worked out at the particular time with respect to the specific legislation and certainly ought not be frozen into place now by the rigid requirement that postcloture no more than 8 hours per day could be spent on the measure, which would guarantee 12½ days of consideration.

Mr. HELMS. Would the Senator prefer 6 hours?

Mr. SARBANES. The Senator would prefer no absolute requirement written into the rule.

The Senator does not regard that as the sensible way to go about this matter.

Mr. HELMS. Would the Senator feel just as strongly about 10 hours?

Mr. SARBANES. The longer we make the hours, the less strongly I would feel, and if we reached 24 hours I would not have any further negative feeling with respect to the matter because we, in effect, would have precluded any sort of arbitrary rule.

Mr. HELMS. I will say this to my friend from Maryland. I believe that this whole issue is born of something less than necessity.

If we look at the statistics, Mr. President, on extended debate in the Senate, on filibusters, we will see readily that, relatively speaking, there have been few major problems.

We know, of course about the Metzenbaum-Abourezk filibuster, and there have been some references to the parliamentary skill of my dear late friend Jim Allen.

But, on balance, if Senators are fair about it, and if they look at the record, they see that the alleged need for changes in rule XXII is just a contrived frustration.

Now, one day last week there were a few of us on this floor late in the afternoon, the distinguished Senator from Maine (Mr. MUSKIE), the distinguished Senator from New York (Mr. MOYNIHAN), the distinguished majority leader, and I think that was all, save for the Presiding Officer who, if memory serves me, was the junior Senator from Michigan (Mr. LEVIN).

But I advanced the observation, Mr. President, that we got in trouble in the Senate along about 1970 when the Senate began to tamper with the rules. Prior to that time, there was comity in this Senate that took care of the situation. When cloture was voted, there was no problem to secure a fairly hasty resolution of the issue.

As I believe I stated that afternoon on the Senate floor, I may be the senior Member of this Senate in one respect, certainly among those present today, in terms of having been here in the early 1950's, not as a Senator, but as administrative assistant to two successive Senators from North Carolina, one of whom died in office, and I saw two or three filibusters. I saw the great Dick Russell of Georgia, and others, fight as hard as they could; but when cloture was voted, comity in the Senate provided that there was a vote.

But at that time there was a constitutional two-thirds requirement before debate was shut off.

Then some of the wiser Members of the Senate, in their judgment, began to tamper with that rule. They reduced the constitutional two-thirds to two-thirds of those present and voting. Then a further reduction was made to three-fifths, a constitutional three-fifths, which is the rule now in existence.

I think, Mr. President, that if anybody took the time to plot it out, it could readily be shown that the more tampering that was done to the cloture requirement, the more diminution occurred in comity and cooperation in the Senate. So, maybe we ought to go back to the constitutional two-thirds. This Senator would favor it.

I fully and sincerely believe that if it were not that we sometimes witness the appearance of a slight majority apparently having the desire to railroad things through, that comity would be restored to a degree that would amaze a lot of Senators.

Sure, there is sometimes suspicion. Sure, there is a tendency not to cooperate. There is a tendency to read into various actions by the leadership motivations which I am sure do not exist.

But I say, Mr. President, to the Chair and to my colleagues, that the more we tamper with the right of the minority—and that is what we are talking about in this matter—the more we tamper with the right of the minority in the Senate, the more we risk reaping the whirlwind.

I am in favor of no change; no change in the rules with respect to filibusters. I say that in the face of the fact that, speaking as one Senator, I really do not care what happens postcloture, because I have always felt that the ball game was over at that point and that I had had my say and that we ought to go ahead and vote.

So, I have no burning obsession about this postcloture business, except what I fear to be a certain pretense that holiness and virtue reside on one side and the black hat boys on the other.

What is at stake every time we tamper with these rules, Mr. President, is the right of the minority, and the minority takes various forms. The Senator from Maryland may well be in a minority one of these days and he may well say, "Gee whiz, why did I ever vote to make it easier to put an end"——

Mr. SARBANES. Will the Senator yield?

Mr. HELMS. I will in a minute, if the Senator will forbear—"to make it easier to shut off debate."

So what we confront here, Mr. President, is not an exercise in who best knows the ropes, or who is the best parliamentarian on this floor, or even who has the most votes.

What we confront here is the very real question of how much farther shall we go in diminishing the rights of the minority.

I do not mean the Republican minority. I do not mean the conservative minority. I mean the minority on whatever issue, at whatever time.

I say, Mr. President, the minority could well shift to the other side.

I have heard several Senators say that they rue the day—rue the day—that they voted to reduce the cloture requirement to a constitutional three-fifths, and well they should. It ought to be two-thirds again.

As I said at the outset, I fully believe that the diminishment of comity and the watering down of cooperation began at the time that this Senate began to tamper with the rules, and that is the reason this is such an important issue to me.

Now, as for the proposed 8-hour day on matters where cloture has been invoked, if any Senator wants to change that to 9 hours, or 10 hours, or whatever, that suits the Senator from North Carolina, fine. But I think there ought to be a very careful limitation placed on how far we go in reducing the participation in these debates.

It is now exactly 5 o'clock, and I count in the Chamber seven Senators, including the distinguished Presiding Officer.

In the old days, Mr. President, this Chamber was virtually filled when there was an issue of this sort. But now, in terms of what we have developed in changing the rules, tampering with the rights of the minority, the Senators are not here. They are in their offices or they are at home. They know there will be no votes. There was a calculated effort made here today—successfully, I might add—to make sure that there were no votes because certain Senators were out of town.

We had 2 days of snow in the city of Washington, and some Senators could not get in. So here we are, in almost a spectacle of rushing this thing through——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. In just a moment.

Of rushing this thing through in 2 days' time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to his bosom friend?

Mr. HELMS. The Senator is not pointing his finger at me, is he?

Mr. ROBERT C. BYRD. No. I merely flourished my hand.

Mr. HELMS. I yield.

(Mr. LEVIN assumed the chair.)

Mr. ROBERT C. BYRD. The Senator bemoans the fact that we are here today talking about a vote tomorrow. What about the days preceding the legislative holiday? What about the days that have ensued since January 15?

Mr. HELMS. I agree with the Senator.

Mr. ROBERT C. BYRD. We have had ample time to debate this matter. I stood on the floor, I believe, on Friday——

Mr. HELMS. I stood with the Senator.

Mr. ROBERT C. BYRD. The Senator was here. That is why I marvel at this. I thought his memory slipped temporarily, because he was here with me on that Friday. He was here with me the day before, on Thursday, when the only Senator who called up an amendment was the junior Senator from West Virginia.

The Senator was going to prove a point, because he foresaw the day when the Senator from West Virginia would say what I have just said—he would be able to stand and face down the Senator from West Virginia, at high noon, in the shootout.

The Senator is correct; he did offer some amendments. But here were the Senator from North Carolina and I—we had the floor to ourselves.

Mr. HELMS. Exactly. And the Senator from North Carolina did indeed offer some amendments.

Mr. ROBERT C. BYRD. For 2 days. The Senator from Maryland was here; the Senator from Montana was here; the Senator from Virginia was here. There were other Senators. The Senator from Idaho was here, and other Senators were here. But there was no action except voice votes.

So I hope the Senator will not leave the record with the impression that here is the majority leader today, Wednesday, February 21, pressing for a vote, pressing for a vote in 2 days, when we have had all this time prior to the legislative holiday to have called up amendments and to have had votes on them.

I have pleaded with Senators. My knees are still sore from my kneeling on this carpet, and my trousers are threadbare from my kneeling here, pleading with Senators to call up amendments. Only one Senator, only one valiant Senator, responded to the call, and that was the Senator from North Carolina.

Mr. HELMS. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. By the way, while the Senator is yielding, will he yield further?

Mr. HELMS. I yield to my good friend.

Mr. ROBERT C. BYRD. The Senator said a moment ago—and I have heard this before—that we are seeing these postcloture filibusters because we changed the rules; that is when we began to see all these postcloture filibusters happen, because we tampered with the rules. Well, I have a little memory about that, myself. It is my amendment that is now in the rulebook which provides for 60 Members invoking cloture.

Does the Senator not recall that that amendment was adopted by the Senate, because of the increasing number of filibusters, the spate of filibusters, that came along? They were on antitrust bills, on extending the voting rights law. You name it; we had a filibuster for it. Back in those days, if a Member wanted to filibuster something he did not like, he filibustered it. That is what brought on the rules change.

So one can say, which came first, the chicken or the egg? You take your pick.

I recall that the rules change came about because the Senate was getting its belly full of these filibusters happening over every little old bill that came along. Any Senator who wanted a filibuster could have it his way—no charge, just have a filibuster. The Senate got tired of it. So we started to amend that rule in 1977.

A few days went by, and Senator LONG stood right back there, where Senator HARRY F. BYRD, JR., sits now, and he said, "Why don't we think in terms of making it a three-fifths vote?"

So some of us went back in the cloakroom, and we came out with that amendment.

So I must say, with all respect to my friend, who has yielded to me most courteously, that the present rule grew out of the abuse of the rule that preceded that change. Senators may say, if they wish, that we are having these postcloture filibusters, because of the tampering with the rules. The Senate does not tamper with its rules lightly. I have been here 20 years; I was in the other body 6 years. The Senate does not tamper with its rules lightly. It tampered with the rules, because it was trying to remedy an ill that had become an affliction, and it is about to tamper with them again today, because we have seen this abuse of the rules.

I hope the Senator will pardon my interruption, but I thought that at least that should be said, so that Senators who read the RECORD can make their choice as to whether it is the chicken or the egg.

Mr. HELMS. I appreciate the Senator's comments. He is, as always, most gracious, and frank in stating his thoughts. I was delighted to hear his response, even though the Senator from North Carolina cannot agree with it.

I want him to know that I meant no criticism of him personally in stating some of the facts.

The arithmetic of this cloture business is that in the first half of the century of the cloture rule—52 years to be exact—cloture was voted 45 times. Since 1970, when the Senate really began to tamper, and I use the word advisedly, tamper with the rules, it has been voted 95 times. Now, that is the arithmetic of it, and the arithmetic speaks for itself.

As for my own participation in extended debates, I think the distinguished majority leader will acknowledge that I have worked with him on countless occasions to reduce the time consumed by the Senate in consideration of various measures on which cloture had been voted.

As a matter of fact, with the exception of the so-called Metzenbaum-Abourezk filibuster, we really have not had a severe problem for the simple reason that Senators do not participate, as a rule, in postcloture filibusters.

I recall a number of times when Jim Allen and I patrolled this floor, Mr. President, looking for Senators who would consume or who would use a part or all of their hour.

But the truth of the matter is that in most cases, with the exception of the extreme case to which I referred, the postcloture consumption of time has been minimal. I do no want the record to indicate that otherwise may be the case.

So we are dealing with a straw man to a great extent with the exception of that extreme case which has come to be known in the Senate as the Metzenbaum-Abourezk episode.

I firmly believe, Mr. President, that it would be the course of wisdom for Senators to support the 8-hour limitation with the understanding that the majority leader is in no way shackled about calling up other business on either side of the 8 hours.

It would not mean an 8-hour day for Senators. I am perfectly prepared to work 12, 14, 16 hours a day. I have done it before and I am perfectly willing to do it again. But I do think that the ability to concentrate on an issue for more than 8 hours becomes questionable, and that is the purpose of this amendment.

I am going to urge its adoption, and, as I indicated earlier, Mr. President, tomorrow I want the yeas and nays on the question.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. HELMS. I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). Without objection, it is so ordered.

ORDER TO HOLD BILL AT THE DESK—H.R. 1902

Mr. LEVIN. Mr. President, I ask unanimous consent that H.R. 1902, the Carson City silver dollar bill, be held at the desk, pending further disposition.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

REPRINTING OF THE REPORT ENTITLED "CHINA" (S. DOC. 96-4)

Mr. LEVIN. Mr. President, on behalf of Senator MUSKIE I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. Has this

request been cleared with the leadership on both sides?

Mr. LEVIN. Yes it has been.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 77

Resolved, That there be printed an additional eight hundred copies of Senate Document 96-4, entitled "China".

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I am constrained to ask, has there been any indication of the cost of that reprinting?

The PRESIDING OFFICER. Does the distinguished Senator from Michigan care to respond?

The Chair will state that the resolution provides for the printing of an additional 800 copies.

Mr. LEVIN. There has been no report on the cost, Mr. President.

Mr. STEVENS. Eight hundred copies?

The PRESIDING OFFICER. Eight hundred copies.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 77) was agreed to.

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1902. An act to amend the Bank Holding Company Act Amendments of 1970.

The message also announced that, pursuant to the provisions of 15 United States Code 1024(a), the Speaker has appointed Mr. BOLLING, Mr. REUSS, Mr. MOORHEAD of Pennsylvania, Mr. HAMILTON, Mr. LONG of Louisiana, Mr. MITCHELL of Maryland, Mr. BROWN of Ohio, Mrs. HECKLER, Mr. ROUSSELOT, and Mr. WYLIE as members of the Joint Economic Committee on the part of the House.

The message further announced that, pursuant to the provisions of section 5, Public Law 420, 83d Congress, as amended, the Speaker has appointed Mr. BONIOR of Michigan and Mr. BUCHANAN as members of the board of directors of Gallaudet College on the part of the House.

The message also announced that, pursuant to the provisions of section 1, Public Law 372, 84th Congress, as amended, the Speaker has appointed Mr. MURPHY of New York, Mr. HOWARD, Mr. FISH, and Mr. GREEN as members of the Franklin Delano Roosevelt Memorial Commission on the part of the House.

At 4:43 p.m., a message from the House of Representatives announced that, pursuant to the provisions of section 170 (a)(3)(B), Public Law 95-599, the Speaker has appointed Mr. ROE, Mr. ALEXANDER, Mr. BLANCHARD, Mr. GLICKMAN, Mr. SEBELIUS, and Mr. REGULA as members of the National Alcohol Fuels Commission on the part of the House.

H.R. 1902 HELD AT DESK

By unanimous consent, the following bill was read by title and ordered held at the desk:

H.R. 1902. An act to amend the Bank Holding Company Act Amendments of 1970.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-517. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Understanding of Wetland Benefits Will Help Water Bank and Other Federal Programs Achieve Wetland Preservation Objectives," February 8, 1979; to the Committee on Agriculture, Nutrition, and Forestry.

EC-518. A communication from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, a violation of Section 3679 of the Revised Statutes, as amended, for the appropriation: Migration and Refugee Assistance, State, 1978, 1981143; to the Committee on Appropriations.

EC-519. A communication from the Deputy Secretary of Defense, reporting, pursuant to law, on annual compensation of officers or employees of a Federal Contract Research Center (FCRC) in excess of $45,000 from federal funds; to the Committee on Armed Services.

EC-520. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, the Base Structure Annex to the Defense Manpower Requirements Report for FY 1980; to the Committee on Armed Services.

EC-521. A secret communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, 52 Acquisition Reports (SARs) and the SAR Summary Tables for the quarter ending December 31, 1978; to the Committee on Armed Services.

EC-522. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the air-, sea-, and ground-launched cruise missiles program; to the Committee on Armed Services.

EC-523. A communication from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, a Final Environmental Impact Statement (EIS) for the Disposal of Surplus Federal Military Properties in Rhode Island: Quonset Point Naval Air Station, Davisville Construction Battalion Center and Newport Naval Base; to the Committee on Armed Services.

EC-524. A confidential communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues concerning the Army's General Support Rocket System program; to the Committee on Armed Services.

EC-525. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an Annual Report of the Reserve Forces Policy Board (RFPB); to the Committee on Armed Services.

EC-526. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on major issues concerning the advanced intercontinental ballistic missile weapon system; to the Committee on Armed Services.

EC-527. A communication from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting, pursuant to law, the Defense Manpower Requirements Report for FY 1980; to the Committee on Armed Services.

EC-528. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of TRIDENT and SSN-688 submarine construction programs; to the Committee on Armed Services.

EC-529. A communication from the Associate Director, Legislative Liaison, Office of the Secretary, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental and research contracts of $50,000 or more, by company, covering the period July 1, 1978, through December 31, 1978; to the Committee on Armed Services.

EC-530. A communication from the Assistant Attorney General, Civil Rights Division, transmitting, pursuant to law, a report of the Attorney General on the administration of the Equal Credit Opportunity Act for calendar year 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC-531. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on Housing Displacement; to the Committee on Banking, Housing, and Urban Affairs.

EC-532. A confidential communication from the Secretary of Commerce, transmitting, pursuant to law, the first annual report on the results of the review of export control country policy; to the Committee on Banking, Housing, and Urban Affairs.

EC-533. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980, 1981, and 1982; to the Committee on Commerce, Science, and Transportation.

EC-534. A communication from the Secretary, Interstate Commerce Commission, reporting, pursuant to law, the Commission's decision to extend the time period for acting on an appeal pending before the Commission in Finance Docket No. 27620, Maine Central Railroad Company v. Amoskeag Company, Frederick Dumaine and Dumaines; to the Committee on Commerce, Science, and Transportation.

EC-535. A communication from the Chairman, U.S. Consumer Product Safety Commission, transmitting a draft of proposed legislation to discontinue or amend certain reporting requirements of law; to the Committee on Commerce, Science and Transportation.

EC-536. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on matters contained in the Helium Act (Public Law 86-777), for fiscal year 1978; to the Committee on Energy and Natural Resources.

EC-537. A communication from the General Counsel, Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-538. A communication from the Under Secretary, Department of Energy, transmitting, pursuant to law, the Second Comprehensive Program and Plan for Federal Energy Education, Extension and Information Activities (CPP); to the Committee on Energy and Natural Resources.

EC-539. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Chicago, Illinois, Everett McKinley Dirksen Federal Building, in the amount of $6,219,000; to the Committee on Environment and Public Works.

EC–540. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, an amendment to the approved prospectus for the New Haven, Connecticut, Post Office and Courthouse, in the amount of $4,670,000; to the Committee on Environment and Public Works.

EC–541. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Post Office and Courthouse, 5th Avenue and 9th Street, Huntington, West Virginia, in the amount of $3,623,000; to the Committee on Environment and Public Works.

EC–542. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Scranton, Pennsylvania, U. S. Post Office and Courthouse, in the amount of $1,802,000; to the Committee on Environment and Public Works.

EC–543. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Washington, D.C. Interstate Commerce Commission, Customs, and Connecting Wing, in the amount of $8,370,000; to the Committee on Environment and Public Works.

EC–544. A communication from the Staff Director, Science Advisory Board, United States Environmental Protection Agency, transmitting, pursuant to law, a report on the evaluation of the health effects research in the U.S. Environmental Protection Agency; to the Committee on Environment and Public Works.

EC–545. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Research Outlook 1979"; to the Committee on Environment and Public Works.

EC–546. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on the review of 15 National Forest primitive areas; to the Committee on Environment and Public Works.

EC–547. A communication from the Director, Congressional Budget Office, U.S. Congress, transmitting, pursuant to law, a report entitled "Guidelines for A Study of Highway Cost Allocation," February 1979; to the Committee on Environment and Public Works.

EC–548. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth his decision to provide import relief on wood and plastic clothespins in the form of a price-bracketed quota; to the Committee on Finance.

EC–549. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the act of June 18, 1934, regarding the submission by the Foreign-Trade Zones Board of annual reports to Congress; to the Committee on Finance.

EC–550. A communication from the Secretary of the Treasury, reporting, pursuant to law, on actions taken, upon his instructions, by the U.S. Executive Director of the International Monetary Fund, to present to the Fund's Executive Board a comprehensive set of proposals on the compensation of Fund employees; to the Committee on Foreign Relations.

EC–551. A secret communication from the Director, U.S. Arms Control and Disarmament Agency, transmitting, pursuant to law, the administration's fiscal year 1980 Arms Control Impact Statements; to the Committee on Foreign Relations.

EC–552. A communication from the Administrator, Agency for International Development, Department of State, reporting, pursuant to law, on steps taken to review proposals for an African Development Foundation (ADF); to the Committee on Foreign Relations.

EC–553. A communication from the Chairman, Development Coordination Committee, transmitting, pursuant to law, a foreign assistance report, combining a number of previous reporting requirements; to the Committee on Foreign Relations.

EC–554. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–555. A communication from the Inspector General, Department of Health, Education, and Welfare, transmitting, pursuant to law, a quarterly report covering the activities of the Office of Inspector General for the period October 1 to December 31, 1978; to the Committee on Governmental Affairs.

EC–556. A communication from the Special Counsel, Office of the Special Counsel, transmitting, pursuant to law, a report on a new system of records; to the Committee on Governmental Affairs.

EC–557. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on various matters affecting the readiness of conventional U.S. Air Forces in Europe and the status of some of the initiatives they are taking in response to improvements in the offensive capabilities of Soviet and Warsaw Pact Air Forces; to the Committee on Governmental Affairs.

EC–558. A communication from the Executive Director, Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the twentieth annual report of the Commission; to the Committee on Governmental Affairs.

EC–559. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish the position of Deputy Secretary of Health, Education, and Welfare; to the Committee on Governmental Affairs.

EC–560. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report of the Department of the Air Force proposals for two new systems of records; to the Committee on Governmental Affairs.

EC–561. A communication from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide survivor benefits to certain dependent children; to the Committee on Governmental Affairs.

EC–562. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Food Salvage Industry Should Be Prevented From Selling Unfit and Misbranded Food to the Public," February 14, 1979; to the Committee on Human Resources.

EC–563. A communication from the Director, Agency for Volunteer Service, ACTION, transmitting a draft of proposed legislation to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, to authorize urban volunteer programs, and for other purposes; to the Committee on Human Resources.

EC–564. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Program To Strengthen Developing Institutions of Higher Education Lacks Direction," February 13, 1979; to the Committee on Human Resources.

EC–565. A communication from the Chairman and members, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report entitled "Desegregation of Nation's Public Schools: A Status Report"; to the Committee on the Judiciary.

EC–566. A communication from the Public Information Officer, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report on the administration of the Freedom of Information Act during calendar year 1978; to the Committee on the Judiciary.

EC–567. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of certain aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–568. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders suspending deportation, as well as a list of persons involved; to the Committee on the Judiciary.

EC–569. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report of conditional entry activities as required by Section 203(f) of the Immigration and Nationality Act for the period covering June 1, 1978 through December 31, 1978; to the Committee on the Judiciary.

EC–570. A communication from the Public Printer, United States Government Printing Office, transmitting, pursuant to law, the annual report of the Public Printer for fiscal year 1978; to the Committee on Rules and Administration.

EC–571. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals for February 1979; to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Foreign Relations, the Committee on Finance, the Committee on Governmental Affairs, the Committee on Human Resources, the Committee on the Judiciary, and the Select Committee on Small Business, jointly, pursuant to order of January 30, 1975.

EC–572. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to authorize appropriations to the Department of Energy for national security programs for fiscal year 1980 and fiscal year 1981, and for other purposes; to the Committee on Armed Services and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

Mr. LEVIN. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of the Department of Energy, relative to authorizing appropriations for the Department of Energy's national security programs for fiscal years 1980–81, be referred jointly to the committees on Armed Services, and Energy and Natural Resources.

The PRESIDING OFFICER. Has this request been cleared with the chairmen involved?

Mr. LEVIN. Yes, it has been.

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

EC–573. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to continue the work of the President's Commission on Pension Policy to develop a national retirement income policy in the United States, and for other purposes; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

Mr. LEVIN. Mr. President, I ask unanimous consent that a communication transmitted by the Director of the Office of Management and Budget, relative to the development of a national retirement income policy by the President's Commission on Pension Policy, be referred jointly to the committees on Finance and Human Resources.

The PRESIDING OFFICER. Has this request been cleared with the majority and minority leaders?

Mr. LEVIN. Yes; it has been.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

S. Res. 75. An original resolution authorizing additional expenditures by the Committee on Foreign Relations for inquiries and investigations (Rept. No. 96–6). Referred to the Committee on Rules and Administration.

By Mr. BAYH, from the Select Committee on Intelligence, without amendment:

S. Res. 76. An original resolution authorizing expenditures by the Select Committee on Intelligence. Referred to the Committee on Rules and Administration.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, TRAVEL AUTHORIZED BY SENATOR HOWARD W. CANNON, TRAVEL DATES: FROM JAN. 27 TO DEC. 31, 1978

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency
Koch, Christopher L.: England	Pounds	307.29	600.00					307.29	600.00
	U.S. dollars				680.00				680.00
Subtotal			600.00		680.00				1,280.00
Gehrig, James J.:									
Yugoslavia	Dinar	11,059.00	590.44	19,188.89	1,024.50	2,988.50	159.56	33,236.39	1,774.50
France	Franc	1,257.00	293.00	292.40	68.05	5.60	1.30	1,555.00	362.35
Germany	Mark	201.00	108.06	72.50	38.98	5.50	2.96	279.00	150.00
Subtotal			991.50		1,131.53		163.82		2,286.85
Total			1,591.50		1,811.53		163.82		3,566.85

Feb. 5, 1979.

HOWARD W. CANNON, Chairman.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON ARMED SERVICES, TRAVEL AUTHORIZED BY SENATOR JOHN C. STENNIS, CHAIRMAN. TRAVEL DATES: FROM NOV. 12 TO DEC. 10, 1978

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Culver: France	Franc	1,513	356.00					1,513	356.00
	Appropriated funds				1,449.00				1,449.00
Sam Nunn: France	Franc	1,958	445.00					1,958	445.00
	Appropriated funds				449.00				449.00
Jeff Record: France	Franc	1,958	445.00					1,958	445.00
	Appropriated funds				449.00				449.00
George F. Travers: Germany	Deutsche mark	1,204.35	665.82					1,204.35	665.82
	Appropriated funds		107.87		770.88				878.75
Total			2,019.69		3,117.88				5,137.57

Jan. 3, 1979.

JOHN C. STENNIS, Chairman.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, TRAVEL AUTHORIZED BY SENATOR WARREN G. MAGNUSON, TRAVEL DATES: FROM JAN. 15 TO JAN. 24, 1978

		Per diem		Transportation		Miscellaneous		Total	
Name and country	Name of currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Perles, Steven R.: Japan	Yen	161,534	675.00					161,534	675.00
	U.S. dollars				1,365.00				1,365.00
Total			675.00		1,365.00				2,040.00

Feb. 5, 1979.

WARREN MAGNUSON.

REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, HENRY BELLMON, U.S. SENATE, TRAVEL AUTHORIZED BY HON. HOWARD BAKER, MINORITY LEADER OF THE SENATE, TRAVEL DATES: FROM NOV. 19, TO NOV. 21, 1978

Country	Name of currency	Per diem		Transportation		Other purposes		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S. currency [1]	Foreign currency	U.S. dollar equivalent or U.S currency [1]
Hungary	Forints			12,047.72	644.01			12,047.72	644.01
Switzerland	Swiss franc	552.60	327.00					552.60	327.00
Germany	German marks			18.00	9.46				
				143.40	75.38			161.40	84.84
Total									1,055.85

RECAPITULATION

Foreign currency (U.S. dollar equivalent) (total) $1,055.85

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Dec. 21, 1978. HENRY BELLMON.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE JOINT COMMITTEE ON PRINTING, TRAVEL AUTHORIZED BY SENATOR CLAIBORNE PELL, CHAIRMAN, TRAVEL DATES: FROM OCT. 22, TO NOV. 6, 1978

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Denver Dickerson: Germany (4 days)			79.00						316.00
Denver Dickerson: Italy (3 days)			75.00		152.25	Car rental	331.71		708.96
Denver Dickerson: Spain (3 days)			75.00		117.41				342.41
Denver Dickerson: London (4 days)			90.00		266.00				626.00
Total			319.00		535.66		331.71		2,193.37

Jan. 29, 1979. CLAIBORNE PELL, Chairman, Joint Committee on Printing.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, ROBERT C. BYRD, VISIT TO THE MIDDLE EAST, NOV. 25 TO DEC. 11, 1978—EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1978

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency
Jeanine J. Drysdale:									
Morocco	Dirham	117.00	29.25					117.00	29.25
Egypt	E. pounds	121.570	173.81					121.570	173.81
Israel	I. pounds	2,916.76	155.31					2,916.76	155.31
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	207.00	53.08					207.00	53.08
Turkey	T. lira	3,290.00	131.60					3,290.00	131.60
England	Pounds	85.85	169.97					85.85	169.97
Robert C. Byrd:									
Morocco	Dirham	200.59	50.15					200.59	50.15
Egypt	E. pounds	115.000	164.29					115.000	164.29
Israel	I. pounds	2,875.50	153.11					2,875.50	153.11
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	192.50	49.36					192.50	49.36
Turkey	T. Lira	2,125.00	85.00					2,125.00	85.00
England	Pounds	85.85	169.97					85.85	169.97
Walter J. Stewart:									
Morocco	Dirham	117.50	29.38					117.50	29.38
Egypt	E. pounds	126.500	180.71					126.500	180.71
Israel	I. pounds	3,575.50	190.39					3,575.50	190.39
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	192.50	49.36					192.50	49.36
Turkey	T. lira	4,115.00	164.60					4,115.00	164.60
England	Pounds	85.85	169.97					85.85	169.97
Barbara Videnieks:									
Morocco	Dirham	117.00	29.25					117.00	29.25
Egypt	E. pounds	45.420	64.89					45.420	64.89
Israel	I. pounds	4,225.50	225.00					4,225.50	225.00
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	292.50	75.00					292.50	75.00
Turkey	T. lira	1,500.00	60.00					1,500.00	60.00
England	Pounds	85.85	169.97					85.85	169.97
Hoyt H. Purvis:									
Morocco	Dirham	172.79	43.20					172.79	43.20
Egypt	E. pounds	157.500	225.00					157.500	225.00
Israel	I. pounds	2,565.50	136.61					2,565.50	136.61
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	182.50	46.79					182.50	46.79
Turkey	T. lira	2,036.00	81.44					2,036.00	81.44
England	Pounds	73.52	145.57					73.52	145.57
J. Michael Willard:									
Morocco	Dirham	120.00	30.00					120.00	30.00
Egypt	E. pounds	136.600	195.14					136.600	195.14
Israel	I. pounds	2,986.21	159.01					2,986.21	159.01
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	174.00	44.61					174.00	44.61
Turkey	T. lira	2,035.00	81.40					2,035.00	81.40
England	Pounds	75.02	148.54					75.02	148.54

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, ROBERT C. BYRD, VISIT TO THE MIDDLE EAST, NOV. 25 TO DEC. 11, 1978—EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1978—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency	Foreign currency	U.S.-dollar equivalent or U.S. currency
Mary Jane Checchi:									
Morocco	Dirham	117.00	29.25					117.00	29.95
Egypt	E. pounds	157.500	225.00					157.500	225.00
Israel	I. pounds	3,215.51	171.22					3,215.51	171.22
Jordan	Dinars	15.800	52.67					15.800	52.67
Syria	S. pounds	182.50	46.79					182.50	46.79
Turkey	T. lira	2,725.00	109.00					2,725.00	109.00
England	Pounds	79.65	157.52					79.65	157.52
Gina G. Sangster:									
Morocco	Dirham	117.00	29.25					117.00	29.25
Egypt	E. pounds	134.113	191.59					134.113	191.59
Israel	I. pounds	2,347.50	125.00					2,347.50	125.00
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	184.00	47.18					184.00	47.18
Turkey	T. lira	1,960.00	78.40					1,960.00	78.40
England	Pounds	77.35	153.14					77.35	153.14
Freeman H. Cary:									
Morocco	Dirham	300.00	75.00					300.00	75.00
Egypt	E. pounds	115.300	164.71					115.300	164.71
Israel	I. pounds	4,225.50	225.00					4,225.50	225.00
Jordan	Dinars	22.800	76.00					22.800	76.00
Syria	S. pounds	117.50	45.51					117.50	45.51
Turkey	T. lira	3,005.00	120.20					3,005.00	120.20
Saudi Arabia	Saudi riyals	17.25	5.16					17.25	5.16
England	Pounds	80.85	160.07					80.85	160.07
Total			6,950.39						6,950.39

RECAPITULATION

	Amount
Foreign currency (U.S. dollar equivalent) (total)	$6,950.39

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note: Delegation traveled also to Iran and Saudi Arabia. In Iran no per diem funds were received by any member of the delegation. In Saudi Arabia all per diem funds were returned in full except where indicated in the breakout above.

Jan. 8, 1979.

ROBERT C. BYRD, Chairman.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and the second time by unanimous consent, and referred as indicated:

By Mr. BAKER (for himself and Mr. RANDOLPH):

S. 436. A bill to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority; to the Committee on Environment and Public Works.

By Mr. EAGLETON:

S. 437. A bill to delay the date certain child support requirements became effective in the case of certain States; to the Committee on Finance.

By Mr. HELMS:

S. 438. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 439. A bill for the relief of Antoinette Slovik; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. WILLIAMS, and Mr. HATCH):

S. 440. A bill to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment, and Rehabilitation Act of 1970; to the Committee on Human Resources.

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. HATCH, Mr. MCCLURE, Mr. STEWART, Mr. COCHRAN, and Mr. YOUNG):

S. 441. A bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes; to the Committee on Finance.

By Mr. EAGLETON:

S. 442. A bill for the relief of Isaac N. Hulver of Kansas City, Missouri; to the Committee on the Judiciary.

By Mr. STEVENSON (for himself and Mr. PERCY):

S. 443. A bill to amend the Federal District Court Organization Act of 1978 with respect to certain administrative matters arising from the redrawing of the federal judicial districts in the State of Illinois, and for other purposes; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 444. A bill for the relief of the Jewish Employment Vocational Service, Saint Louis, Missouri; to the Committee on the Judiciary.

By Mr. PERCY (for himself and Mr. ROBERT C. BYRD):

S. 445. A bill to reorganize Federal regulatory agencies to prevent excessive, duplicative, inflationary, and anti-competitive regulation, and to make regulation more effective and responsive to the public interest; to the Committee on Governmental Affairs.

By Mr. RANDOLPH:

S.J. Res. 39. A joint resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER (for himself and Mr. RANDOLPH):

S. 436. A bill to amend section 15(d) of the Tennessee Valley Authority Act of 1933 to increase the amount of debt which may be incurred by the Tennessee Valley Authority; to the Committee on Environment and Public Works.

TENNESSEE VALLEY AUTHORITY

● Mr. BAKER. Mr. President, I send to the desk for introduction and appropriate referral a bill, forwarded from the administration, which will increase the authority of the Tennessee Valley Authority to incur debt in the financing of its power operations over the next 5 years.

Since 1959, the power program of TVA has been totally self-funding. Its debt obligations are neither obligations of the Federal Government nor are they guaranteed by it. However, in order to maintain periodic oversight of the progress and operation of the TVA power program, Congress has imposed a ceiling on the amount of debt which TVA may incur. Traditionally, the ceiling has been raised periodically at approximately 5-year intervals. The original ceiling was set at $750 million in the 1959 TVA Self Financing Act and has been increased in 1966 to $1.75 billion, in 1970 to $5 billion, in 1975 to $15 billion.

The President's recommendations is for an increase now to $30 billion. I attach at the end of these remarks, a copy of the transmittal letter explaining in detail the need for this measure.

I am happy to have the cosponsorship of the chairman of the Senate Environment and Public Works Committee in the introduction of this bill. He has been a powerful force over the past several years in shaping the TVA power program, the largest coal consumer in the United States. His influence has led to a more flexible attitude in planning for future capacity. The current funding request is based upon future needs for capacity planned around both coal and nuclear power. The addition will also be

used for capital improvements to keep TVA's coal-fired units in service and to provide environmental control systems to assure that their continued use is environmentally sound.

I intend to use the committee hearing process to explore the plans and analysis of demand that the current board of directors have undertaken in justification of this request. While the continued economic growth of the Valley must be assured, it must be planned so as to minimize the inflation of basic costs, such as, energy for cooking, lighting, and home heating. This additional authority must be used to enhance the efficiency of TVA, encourage conservation, and lead to the lowest practicable rates.

I ask unanimous consent that the transmittal letter accompanying the administration's bill and a brief explanation of the request be printed in the RECORD.

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

TENNESSEE VALLEY AUTHORITY,
Knoxville, Tenn., February 16, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to transmit to Congress proposed legislation to amend the Tennessee Valley Atuhority Act of 1933 by raising the ceiling on TVA's authority to issue revenue bonds to finance its electric power program.

In 1959 Congress amended the TVA Act by adding Section 15d, which authorized TVA to borrow up to $750 million and made the TVA power program financially self-supporting. Power program costs, capital and operating, are now paid for from power system revenues and borrowings secured solely by those revenues. Bonds issued under Section 15d are not financial obligations of or guaranteed by the United States.

Since 1959 the dollar ceiling on TVA's bond authority has been increased roughly once every five years—to $1.75 billion in 1966, to $5 billion in 1970, and to $15 billion in 1975. These increases were necessary to keep pace with the demand for more electric power generation in the Tennessee Valley region and the rising cost of new generating plants. The increase to $30 billion in the proposed legislation would maintain that 5-year historical pattern of funding.

The proposed legislation would amend Section 15d of the TVA Act to increase the ceiling on TVA's indebtedness from $15 to $30 billion. This increase is necessary to fully fund TVA's existing construction program of generating units which include the Sequoyah, Watts Bar, Bellefonte, Hartsville, Phipps Bend, and Yellow Creek Nuclear Plants; the obligations incurred for cost-effective investment in conservation facilities to reduce the need for additional generating facilities, transmission facilities, nuclear fuel investments, pollution control equipment; and other additions and improvements to the TVA power system. It would also provide the necessary resources to make fully funded commitments through 1985 for an additional 7,200 megawatts of generating facilities now anticipated to be needed to meet the electric energy requirements of the Tennessee Valley through 1995.

TVA has recently completed its forecasts of electric energy needs for the Valley to the year 2000, based on anticipated growth in the economy and an increasing emphasis on energy conservation. We have also estimated the cost of investments necessary to meet these loads in the face of continuing inflation. Obviously there is a fair amount of uncertainty with respect to future rates of growth and our estimates, therefore, reflect a range of differing assumptions. The $15 billion will provide TVA with the borrowing authority to meet its utility responsibility to the electric energy consumers in the power service area on the basis of healthy economic growth modified by aggressive conservation measures. TVA is simply seeking the authority to meet the projected increased demands for electric energy as such demands materialize. TVA will use the new authority only as carefully determined estimates of load growth justify such investments.

The importance of this amendment cannot be underestimated. Without this authority TVA cannot discharge its utility responsibility, and economic progress in the 7-state Tennessee Valley region would be seriously impeded. The ability of TVA to raise sufficient capital for its self-supporting and self-financing electric power system is the principal factor in the economic and social well-being of this region.

TVA can meet the growing demands for electric power only if it has the authority to finance expansion to meet those demands. The homeowners and businesses dependent on TVA for power are entitled to build homes and expand their industrial plants with confidence that electricity will be available. The same is true for homeowners and businesses in other areas of the country who, in power emergencies, are often directly affected by the power supply situation on the TVA system with which their own systems are interconnected.

I, therefore, respectfully urge Congress to give favorable consideration to this proposed legislation.

The Office of Management and Budget advises that as herein described it has no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

S. DAVID FREEMAN,
Chairman.

INCREASE IN TVA'S AUTHORITY TO BORROW

BACKGROUND

Since 1959 under the self-financing authority of the TVA Act, the Public Works Committees and the Congress have increased the dollar ceilings on TVA's borrowing roughly once every five years—to $1.75 billion in 1966, to $5 billion in 1970, and to $15 billion in 1975. The president's budget proposes legislation authorizing an increase in TVA's authority to borrow from $15 billion to $30 billion. The increase will require the amendment of Section 15d(a) of the TVA Act. The increase is needed to cover the cost of the generating plants currently under construction and to finance the construction of additional power system facilities that will need to be started over the next five years. Failure to obtain a borrowing authority increase would result in the deferral of decisions to start construction on new generating facilities and in fiscal year 1981 the curtailment of construction activities on plants now underway.

RELATIONSHIP OF TVA BORROWING AUTHORITY TO BUDGET AUTHORITY

TVA power program borrowings and outlays do not affect the Federal budget in the usual sense. The obligations represented by TVA bond issues do not result in the outlay of any government funds, and TVA borrowings are not guaranteed or in any way secured by the Federal Government. Interest and bond principal must be paid out of the proceeds of the power program.

TVA Act Section 15d(b) states:

"Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by the United States. Proceeds realized by the Corporation from issuance of such bonds and from power operations and the expenditures of such proceeds shall not be subject to apportionment under the provisions of Revised Statutes 3679, as amended (31 U.S.C. 665)."

Although TVA's borrowing authority is not budget authority in the conventional sense, such authority effectively serves as "no year budget authority" for the power program. New authority is entered in the *Budget of the United States* as a lump sum in the year it is enacted and is diminished over time as obligations are made against this authority.

As TVA makes contractual commitments for the construction of new plants and facilities and other capital investments, obligations, net of reinvested earnings, are made against the authority to borrow balance as if it were conventional budget authority. Proceeds from borrowing and the sale of electricity cover disbursements as contractual commitments are liquidated. Because of the long-term nature of many of these commitments a significant lag in the timing of the initial obligation and ultimate disbursement occurs. For example, at the end of fiscal year 1980 the cumulative impact of the capital investment program on the borrowing authority balance (obligations against borrowing authority) is estimated to be $14.139 billion while outstanding borrowings will be about $10.775 billion. The unobligated balance or remaining "budget authority" will be $0.861 billion. *This unobligated balance will be exhausted in 1981, making it necessary to increase the borrowing limitation before that time.*

Outlays as reported in the budget approximate borrowings and do not flow immediately or automatically from the issuance of new borrowing authority. Because of the self-financing nature of the TVA power program, such outlays do not contribute to the deficit of the United States.

RATIONALE FOR THE BORROWING AUTHORITY INCREASE

The additional $15 billion increase will finance the completion of the existing construction program of generating units; obligations incurred to carry out TVA's conservation programs, transmission facilities, nuclear fuel investments, pollution control equipment; and other additions and improvements to the TVA power system. It will also provide the financing needed for new generating plants that may be started between now and 1985.

The need for generating facilities beyond those now existing or under construction was determined by comparing the projected energy requirements of the region to the energy which can be produced by these facilities. Even with the anticipated effectiveness of TVA's conservation efforts in reducing peak demands including contemplated rate and load management actions, additional capacity will be required to meet system generating requirements in the early 1990's. The projected requirements are based upon a study of an array of load growth forecasts and alternative means of meeting load requirement. The $15 billion increase requirement is based on relatively conservative assumptions that provide a degree of flexibility for the power program.

Based on these assumptions Exhibit 1 shows how the current construction program might be augmented with additional generating facilities designed to meet the region's energy requirements through 1995. For cost estimating purposes, some 8,400 megawatts of conventional central station

generating capacity has been assumed for installation by 1995.

The energy provided by these plants could, alternatively, be supplied by a variety of power supply technologies, including cogenerating or fluidized-bed combustion plants, where these options prove to be economical. The type of capacity would be determined late in the planning process. No retirement of existing facilities was considered in determining the need for new facilities even though 40 of TVA's 63 coal-fired units will have been in operation in excess of 40 years by 1995.●

By Mr. EAGLETON:

S. 437. A bill to delay the date certain child support requirements became effective in the case of certain States; to the Committee on Finance.

● Mr. EAGLETON. Mr. President, my colleagues will recall that in 1975 Congress enacted the Child Support Enforcement program (Public Law 93–647), which was primarily supported by Senators LONG, TALMADGE, and NUNN. The purpose of this program is to establish a cooperative mechanism for the State and Federal Government to enforce support obligation owed by absent parents to their children by locating absent parents, establishing paternity when necessary and obtaining child support. This, the sponsors told us, will result in savings to the taxpayers, because the Federal and State Governments would ultimately be required to pay out less in Aid to Dependent Children benefits.

At the time of the debate on this legislation, many so-called experts predicted that the program would be a failure. These experts suggested that one of the main reasons absentee fathers do not make their payments is because they are penniless, and that to try to collect from them would be like trying to squeeze blood from a rock.

The program is now 3½ years old and in those 3½ years, the record has shown us that the experts were wrong, and that Senators LONG, TALMADGE, and NUNN were right. Health, Education, and Welfare Secretary Califano has termed the program "a success," and projects that we will collect during the fourth quarter of fiscal year 1979 at a rate of over $2 billion a year. In fiscal year 1978 child support collections by State and local governments increased to $1,050 million at a cost to Government of about $300 million—in other words, more than $3 were recovered for every $1 spent. This is truly an outstanding program.

In my own State of Missouri, the child support enforcement program got off to a slow start, but now it is functioning with much success. I will return to our initial problems in a moment, but first I would like to tell my colleagues a little about the record of this program in Missouri thus far.

The program went into full operation in my State on July 1, 1977. There now are seven child support field offices in Missouri, and the statewide staff numbers 155 persons. Missouri has approximately 70,000 ADC families; we already have received more than 112,000 child support program assignments and referrals from ADC staff and after just four quarters of operation in Missouri the program has more than 86,000 open cases. Since the beginning of the program we have collected approximately $4.6 million in delinquent payments. Furthermore, after only four quarters of operation, for every $1 the State of Missouri spent on this program, we received approximately $2.67 in return. This remarkable record is bound to improve even more as the State gains in experience.

Missouri has a problem with this program, however. It is a historical problem which could end up costing my State about $5 million because we did not initiate the child support program until July 1977.

The story goes back to 1976. At that time, in his message to the State legislature in January of 1976, former Governor Bond described enactment of State enabling legislation for this program as one of his top priorities. Leaders of both the State house of representatives and the State senate echoed the Governor's sentiment on this, and it looked like the bill would win quick approval in Jefferson City. However, the bill ran afoul of parliamentary maneuvering. Two State senators—realizing that passage of the bill was crucial—decided to turn the child support legislation into a "Christmas tree bill," to use one of Senator RUSSELL LONG's favorite expressions. These two legislators encumbered the bill with so many nongermane amendments that the bill became unacceptable to the House-Senate conference. When the State house deleted the nongermane amendments and sent the bill back to the senate on the last day of the legislative session, the two State senators filibustered the bill to death.

Needless to say, our State division of family services officials were shocked by this unexpected turn of events. The division already had prepared the policy manual and the statewide staffing and organizational plan for the program, and all was ready for implementation in April of 1976. However, with the authorizing legislation dead, and with the legislature out of session until 1977, there was absolutely nothing the division could do to bring Missouri into compliance and actually get the program underway. Division officials could only spend the rest of 1976 laying ground work with prosecutors all across the State, so that the child support program could be fully implemented as soon as the necessary State legislation was enacted in the 1977 legislative session.

In January of 1977 the Legislature returned to Jefferson City and Gov. Joseph F. Teasdale repeated Governor Bond's call for speedy enactment of the child support enforcement program. Again, the leadership of each house of the general assembly included this legislation on its "must" list. This time, fortunately, agreement was reached with the two filibustering Senators of 1976, and the bill was enacted into law with an effective date of July 1, 1977.

Administrative machinery for the program had been ready to go for a year, and thus it took very little time for the Division of Family Services to get our Child Support Enforcement program operating at full speed. In fact, start up was so rapid and trouble free that by the end of the first quarter of operation, cooperative agreements had been signed with all 114 counties and the City of St. Louis. Missouri may have been late in getting this program off the ground, but once the wheels began to turn progress was very rapid. In fact, Missouri accomplished more during its first quarter of operation than some States have accomplished to this day.

The problem Missouri faces does not arise out of our operation of the program, but rather out of our delay in getting the program started. As my colleagues know, the Department of HEW must audit each State's Child Support Enforcement program for the period January 1977, through September 1977. If a State's program is found to have been deficient during this period, HEW is required to assess a 5-percent penalty against ADC Federal payments to the State. In Missouri's case such a penalty would amount to about $5 million. At this time the Federal officials have completed their audit of Missouri but have not issued their final report. However, since Missouri's enabling legislation did not allow our program to go into effect until July of 1977 it is unlikely that Missouri can successfully complete the audit.

Mr. President, the legislation I am introducing today is identical to legislation which passed the Senate last year as an amendment to H.R. 12232. Unfortunately, this legislation died because during the last minute rush in the 95th Congress a House-Senate conference committee failed to meet. Simply stated, my legislation would exempt Missouri from the requirement of a January 1977 through September 1977 audit. As I have explained today colleagues, Missouri now has in operation one of the best child support enforcement programs in the country, and I think this is the result Congress wanted when we passed the title 4(d) legislation.

In my judgment it would be unfair to penalize the people of my State for the actions of two State senators in 1976, and I think such an action would be inconsistent with the spirit of Federal/State cooperation which motivates this program.

Mr. President, since this legislation did pass the Senate during the 95th Congress, I am hopeful that the Senate Finance Committee and the Senate will see fit to act on my legislation expeditiously during the 96th Congress.●

By Mr. HELMS:

S. 438. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

THE RIGHT OF VOLUNTARY PRAYER IN PUBLIC SCHOOLS CAN BE RESTORED BY CONGRESS

● Mr. HELMS. Mr. President, earlier this morning as we joined in prayer, as we do each day the Senate is in session, the thought came to mind that while we begin our day's work by asking God's blessing on our efforts, the Supreme Court has effectively denied this right

and privilege to millions of schoolchildren across this Nation.

Mr. President, one would think that if the legislators of this country are entitled to ask for divine blessing upon their work, then so are schoolchildren. However, the Court has ruled to the contrary and in so doing has overturned more than 200 years of American custom. Indeed, the Supreme Court has ruled that schoolchildren may not read the prayer of the House or Senate Chaplain as printed in the CONGRESSIONAL RECORD as a beginning to their school day.

Mr. President, the interpretation of the first amendment used by the Supreme Court to strike down this practice of the American people, distorted the intent and language of the amendment. The Justices of the Court held that a voluntary prayer constituted a violation of the "establishment of religion" clause of the first amendment. The Court's interpretation of the first amendment indicated not only an animosity toward the effect of religion in the public life of our Nation, but also a misunderstanding of its historical role.

This week, the Senate once again assembled to listen to George Washington's Farewell Address. Washington brought the unique experiences of his service as first President of the United States, as commander of the continental forces during the War of Independence and as president of the convention which wrote and presented the Constitution to the States for ratification. He rejected the narrow opinion that religion must be excluded from the public life of the Nation. In his final counsel to the Nation, Washington warned that—

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, Washington's view has, indeed, been the mainstream of the legal and social attitude of the American people and the drafters of the Constitution in regard to the religious rights preserved in the Bill of Rights. Prof. Edward Corwin, one of our most distinguished constitutional scholars, rejected any interpretation of the first amendment which would force upon Government institutions a formal agnosticism. Professor Corwin writes:

> The historical record shows beyond peradventure that the core idea of an "establishment of religion" comprises the idea of preference; and that any act of public authority favorable to religion in general cannot, without manifest falsification of history, be brought under the ban of that phrase.

THE SUPREME COURT DECISIONS

Nearly 200 years after the drafting of the Constitution, the Supreme Court for the first time ruled that prayer and Bible reading in public schools encouraged by the State constitutes an establishment of religion in violation of the first amendment. At the time of these decisions, 26 States permitted Bible reading in the public schools and 13 authorized the saying of the Lord's Prayer.

The first amendment provides that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." In *Engel* v. *Vitale*, 370 U.S. 421 (1962), the Court prohibited a requirement of the New York State Board of Regents that each class begin the school day with the following prayer:

> Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.

In *Abington School District* v. *Schempp*, 374 U.S. 203 (1963), the Court struck down a Pennsylvania statute requiring the reading of at least 10 verses from the Holy Bible without comment and the saying of the Lord's Prayer at the beginning of each school day. In a companion case, the Court invalidated a Maryland requirement concerning the reading of a chapter of the Holy Bible and/or saying the Lord's Prayer.

In each case, the Court ruled that voluntary school programs including Bible reading or prayer violate the establishment clause of the first amendment. In Engel, Justice Black wrote:

> The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government. (370 U.S. at 425)

In Schempp, Justice Clark concluded that the Bible reading programs:

> Are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion. (374 U.S. 203)

In both rulings the Court went beyond the language of the establishment clause to construct an interpretation of it which would overturn the longstanding State practices. In Engel, Justice Black asserted:

> Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion . . . The Establishment Clause thus stands as an expression of principle on the part of the Founders of our Constitution that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate. (370 U.S. 431–32)

Justice Clark argued in Schempp that the Court had previously "rejected unequivocally the contention that the establishment clause forbids only governmental preference of one religion over another." (374 U.S. 216) He maintained that the establishment clause must be considered together with the free exercise clause, and that they impose on Government a "wholesome neutrality" toward religion. In Justice Clark's view, the first amendment prohibits Government from any action favoring one religious sect over all others, or religion in general over nonreligion.

Justice Clark formulated a new standard by which to measure legislative action regarding the first amendment:

> The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition or religion the enactment exceeds the scope of legislative power as circumscribed by the Constitution. That is to say that to withstand the structures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion. (374 U.S. at 222)

The Court maintained that even though the prayer and Bible reading activities were voluntary, this did not prevent them from violating the establishment clause. In Engel, the Court held that—

> The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. (370 U.S. 421)

COURT'S INTERPRETATION—SHEER INVENTION

Thus the Supreme Court reached a position which earlier the highest court of New York State had concluded "is so contrary to history as to be impossible of acceptance." Constitutional scholars also took issue with the Court's new interpretation. For example, Prof. Charles Rice of Notre Dame Law School found that the Court interpreted "the establishment clause in abstract and oversimplified terms, doing violence thereby to the history and informed logic of the first amendment" and Erwin Griswold, dean of Harvard University Law School, viewed the Court's holding as "sheer invention."

The Court reached its holdings in Engel and Schempp by way of a myopic and narrow view of the history of the Constitution. Only by a thorough distortion of the work of the authors of the Constitution is it possible to arrive at the sweeping condemnation of America's spiritual heritage presented in the Court's opinions.

Professor Rice, writing in the South Carolina Law Review, explains:

> It has been incorrectly asserted, by the Supreme Court and others, that the establishment clause ordained a government abstention from all matters of religion, a neutrality between those who believe in God and those who do not. An examination of the history of the Clause, however, will not sustain that analysis. Its end was neutrality, but only of a sort. It commanded impartiality on the part of government as among the various sects of theistic religions, that is, religions that profess a belief in God. But as between theistic religions and those nontheistic creeds that do not acknowledge God, the precept of neutrality under the establishment did not obtain. Government, under the establishment clause, could generate an affirmative atmosphere of hospitality toward theistic religion, so long as no substantial partiality was shown toward any particular theistic sect or combination of sects.

Justice Joseph Story, who served on the Supreme Court from 1811 to 1845 and who was a contemporary of the framers of the Constitution, maintained that at the time of the drafting of the first amendment:

> The general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions and to make it a matter of state policy to hold all in utter indifference, would

have created universal disapprobation, if not universal indignation.

COURT IGNORED HISTORY

The first amendment provides that Congress shall make no law respecting an establishment of religion. Those assembled at the Constitutional Convention did not arbitrarily choose the phrase "an establishment of religion." There was much history behind the term. Not only did England and Scotland have an established church, but five of the States which later adopted the first amendment had established churches as well.

In the Engel and Schempp opinions, the Court ruled that the phrase "establishment of religion" really meant not just the creation of a national church, but any Government action dealing or touching religion. To cite Justice Clark's new test outlined in Schempp, the "primary effect" of any governmental act must not "advance religion."

Yet, it is just this view of what the first amendment should provide that the authors of the amendment specifically rejected. During the Constitutional Convention the delegation from New Hampshire proposed that the first amendment should read:

> Congress shall make no laws touching religion . . .

Needless to say, that language was rejected.

An elementary rule of statutory construction provides that when a legislative assembly rejects language which has a broad application and substitutes in lieu of it language with a specific, narrow application, that the legislative intent is to exclude the broad application. Had the proposal that Congress make no law "touching religion" been accepted, it would undoubtedly have prevented Congress from doing much more than establishing a national religion. If applied to the States, it undoubtedly would have prohibited the type of prayer at issue in the Engel and Schempp cases. However, it is equally clear that this broad language was rejected and that Congress viewed the official encouragement of voluntary prayer, even on the national level, as to be contrary to the first amendment's establishment provision.

On September 24, 1789, the first Congress passed a resolution requesting that the President "recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness." Congress passed this resolution calling for a national day of prayer on the same day on which it adopted the first amendment to the Constitution. Nine days later President Washington issued the Thanksgiving proclamation. Could any action more clearly indicate the intent of the authors of the first amendment regarding its establishment clause and Government-encouraged public prayer? The framers of the Bill of Rights clearly rejected the doctrine imposed upon the Nation in their name nearly 200 years later when the Supreme Court demanded that "in the relationship between man and religion, the State is firmly committed to a position of neutrality."

A threshold issue presented in the Engel and Schempp cases was whether the establishment clause of the first amendment could be applied to the action of State governments through the 14th amendment. The Court rejected an historical analysis of the meaning of the 14th amendment and relied on unsupported assertions. Wrote Justice Clark:

> First, this Court has decisively settled (that the establishment clause) has been made wholly applicable to the States by the Fourteenth Amendment.

For proof, he cited an opinion of Justice Roberts in Cantwell against Connecticut. The difficulty here is that the Cantwell case does not deal with the establishment clause and, therefore, does not settle anything at all. Thus the fundamental issue before the Court was disposed of by hypothesis.

Here again, an open historical inquiry would lead to a result far different than that of the Court's. The framers of the 14th amendment themselves did not intend nor did they believe that the amendment would prohibit the States from encouraging prayer in public schools. How else can one understand the serious attempt by some in Congress only 7 years after the ratification of the 14th amendment to amend the Constitution once again to prohibit the State establishment of religion? If the 14th amendment was intended to do this, why would those who had just adopted it propose to do it again?

The answer is that the 14th amendment did not apply the establishment clause of the first amendment to the States. Only a distortion of both amendments and their history permit such an application.

In part, the 14th amendment provides that no State "shall deprive any person of life, liberty, or property, without due process of law." Before its decisions in the Engel and Schempp cases, the Court had applied other aspects of the Bill of Rights to the States through the 14th amendment by asserting that the word "liberty" as used in the amendment included all the liberties included in the Bill of Rights. Hence the liberties annunciated in the Bill of Rights could be protected from encroachment by the States.

But as Prof. Edward Corwin has explained, the establishment clause is not like the liberties outlined in the first nine amendments such as the right to bear arms. Rather it is like the 10th amendment which distinguishes the proper constitutional powers of the national and State governments under our Federal system.

The framers of the first amendment rejected the proposal by the delegations of Virginia and North Carolina that "no particular religious sect or society ought to be favored or established, by law, in preference to others," because this language would have allowed Congress to disestablish the established churches of five States. The Congress then rejected Madison's proposal that the first amendment not apply to Congress at all, but that it prohibit only the States from violating "the equal rights of conscience."

The authors of the first amendment sought to protect religious liberty by providing that "Congress shall make no law * * *prohibiting the free exercise" of religion. However, regarding the purpose of the establishment clause, the legislative history is clear that the framers sought to prohibit Congress from establishing a national church or interfering with the individual State's policy regarding religion. As Justice Story later wrote:

> The whole power over the subject of religion is left (by the amendment) exclusively to the State governments to be acted upon according to their own sense of Justice and the State constitutions.

The authors of the first amendment sought a division of power in which the States would retain their ability to establish or disestablish a religion, while Congress had no power in this area. There simply is no liberty contained in the establishment clause to be "incorporated" through the 14th amendment and applied to the States. To interpret both amendments in such a way as to construe such an application would amount to prohibiting a State from establishing a national religion or from interfering with its own arrangements regarding religion.

CONGRESS CAN RESTORE THE RIGHT TO SCHOOL PRAYER

Mr. President, Congress need not yield to any Justice of the Supreme Court in its respect for the words of the first amendment or for the principles or history behind them. Neither must Congress yield its responsibility under the Constitution to insure that the freedoms protected by the first amendment are not undermined by actions of other institutions. There is no more pressing duty facing Congress than to restore the true spirit of the first amendment.

In anticipation of judicial usurpations of power, the framers of our Constitution wisely gave Congress the authority, by a simple majority of both Houses, to check the Supreme Court by means of regulation of its appellate jurisdiction. Section 2 of article III states in clear and unequivocal language that the appellate jurisdiction of the Court is subject to "such exceptions, and under such regulations as the Congress shall make."

Today, I am introducing legislation to implement the prerogative of Congress. It states simply that the Federal courts and the Supreme Court shall not have jurisdiction to enter any judgment, decree, or order denying or restricting, as unconstitutional, voluntary prayer in any public school. Implicit in this bill is the understanding that the American citizen will have recourse to a judicial settlement of his rights, but this settlement will be made in the State courts of this Nation and not in the Federal courts. This is where our religious freedoms were always safeguarded for 173 years until they were nationalized by the Supreme Court.

The limited and specific objective of this bill, then, is to restore to the American people the fundamental right of vol-

untary prayer in the public schools. I stress the word voluntary. No individual should be forced to participate in a religious exercise that is contrary to his religious convictions, and the bill recognizes this important freedom. At the same time, the bill seeks to promote the free exercise by allowing those who wish to recite prayers—and they are the vast majority of our citizens—to do so, with or without the blessings of the Government.

I think the conclusion is inescapable that in the Engel decision the Supreme Court in effect gave preference to the dissenters and at the same time violated the establishment clause of the first amendment by establishing a religion—the religion of secularism.

Public school children are a captive audience. They are compelled to attend school. Their right to the free exercise of religion should not be suspended while they are in attendance. The language of the first amendment assumes that this basic freedom should be in force at all times and in all places.

Mr. President, I ask unanimous consent that my legislation 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. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provision of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

Sec. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.●

By Mr. RIEGLE:

S. 439. A bill for the relief of Antoinette Slovik; to the Committee on the Judiciary.

ANTOINETTE SLOVIK

● Mr. RIEGLE. Mr. President, today I am introducing a bill to correct an egregious wrong that happened 34 years ago last month. Many of us are familiar with the story of Pvt. Eddie Slovik, the only man executed by the United States for desertion since the Civil War. Over 20,000 desertions occurred in the European theater in World War II, some of these resulted in general courts-martial and convictions, 49 were sentenced to death, but only one was shot: Eddie Slovik.

His widow is still alive, though her physical condition and spiritual strength appear to be waning. Recently, Mrs. Slovik was admitted to a hospital suffering from a multitude of ailments; not the least being frustration and defeat.

Mrs. Slovik has been living as a virtual pauper for all these years, and has been fostering the hope that some relief would be forthcoming from the Government. She has filed appeals and taken the required bureaucratic steps to obtain the life insurance benefits from a Government policy in her husband's name. None of these efforts has been successful.

The circumstances surrounding the desertion, trial and execution of Eddie Slovik are by no means clear. His Army counsel has suggested that Eddie Slovik's due process was denied. These questions may never be resolved, but one fact remains; a lonely woman has suffered for many years and has but one remaining hope.

The legislation that I introduce would mandate the payment of those life insurance benefits with accrued interest to Mrs. Slovik. Congressman RANGEL has introduced a similar measure in the House and, last year, President Carter indicated his support for such measures. I believe that compassion and justice should guide using the consideration of this legislation. This is a chance to alleviate some of the suffering and indignity that Mrs. Slovik has undergone, and I urge the adoption of this bill.●

By Mr. RIEGLE (for himself, Mr. WILLIAMS, and Mr. HATCH):

S. 440. A bill to revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970; to the Committee on Human Resources.

COMPREHENSIVE ALCOHOL, ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1979

● Mr. RIEGLE. Mr. President, today I am introducing, together with Mr. WILLIAMS and Mr. HATCH, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979. This bill, which renews and revises the authorizations for the National Institute of Alcohol Abuse and Alcoholism, will be the subject of hearings by the Subcommittee on Alcoholism and Drug Abuse of the Committee on Human Resources on the 22d and 26th of this month.

I am particularly pleased that this bill represents a bipartisan effort supported by Senators from both sides of the aisle who are known for their commitment to the prevention and treatment of alcoholism. I am honored to be jointed in introducing this bill by Mr. WILLIAMS, the chairman of the Human Resources Committee, whose longstanding interest and activities in this field are reflected in his membership on the Alcoholism and Drug Abuse Subcommittee and by Mr. HATCH, ranking minority member of the subcommittee noted for his concern for the problems faced by families dealing with alcoholism. I look forward to working with all the members of the subcommittee, the full Human Resources Committee, and other interested Members of the Senate through the hearing and markup process.

Mr. President, as the new chairman of the Subcommittee on Alcoholism and Drug Abuse, I feel very strongly that we are at a crucial point in terms of Federal involvement in the prevention and treatment of alcoholism and alcohol abuse. The Federal Government has been actively concerned with alcohol abuse for less than a decade. During this period, we have begun to coordinate Government efforts on Federal, State, and local levels in the treatment of this devastating disease. We have initiated research into the causes and effects of alcoholism. We have focused attention on the magnitude of alcohol abuse in this country—estimated at a cost to the Nation of more than $42.75 billion in 1975—and we have begun to sensitize more and more health care providers, employers, and citizens across the country to the very great need for understanding, assistance, and respect for individuals and families stricken with alcoholism.

Yet, despite these promising beginnings, the Federal role in the battle against alcoholism and alcohol abuse has not been firmly established. This year, for example, we confront suggestions that Federal assistance to States for dealing with alcoholism and alcohol abuse be diminished and diluted. Such a move could be disastrous for the more than 10 million Americans directly affected by alcoholism, as well as for many of the 40 million others indirectly affected.

Mr. President, like the other Members of this body, I am determined to work diligently for more efficient, cost-effective Government programs. In the area of alcoholism, such programs can be encouraged. Studies evaluating federally funded alcoholism service programs have generally found benefits outweighing costs by factors ranging from 2 to 1 to 5 to 1. I might add that many of these benefits accrue directly to the Federal Government in the form of reduced health and social service expenditures. Accordingly I believe it is essential to expand and improve the accountability of Federal grants to States and to individual projects in order to reduce the tremendous losses our economy suffers due to alcohol abuse.

The amendments I am introducing today to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are also designed to shift Federal

emphasis on programs that will help prevent the spread of this disease. Prevention and education programs are emphasized throughout the bill, including a provision requiring that at least 8 percent of funds apropriated for projects grants and contracts be awarded to prevention projects. In addition, research efforts that may result in improved and increased ability to prevent alcoholism are expanded.

The bill also focuses Federal efforts on the needs of members of groups at risk of alcoholism, including youth, women, the aged, and families of alcoholics. Furthermore, it directs NIAAA to develop model occupational programs for prevention and treatment of alcohol abuse that can be adapted for use on a cost-effective basis in different types of business and governmental entities, including small businesses. These model programs will be able to enlist both employers and employee associations in projects that hold tremendous potential for assisting alcoholic workers and their families.

Other new initiatives include a restructuring of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism into a policy-level Interdepartmental Committee with White House participation; expansion of the prohibition on discrimination against alcoholics in health care to include other Federal social services; and expanded authority for NIAAA to offer tehnical assistance to States for coordinating data collection, program management, and similar activities between alcohol and drug abuse programs.

Finally, the bill includes a proposal for a new program of small Federal grants to States willing to conduct demonstration projects or implement, through their insurance regulatory process, procedures designed to bring treatment of alcoholism within the mainstream of public and private health insurance systems. This new program, which utilizes the funding authorization already in place for project grants and contracts, would build on existing trends toward financing alcoholism treatment through third-party health financing systems, which should be the ultimate goal for providing adequate care to all alcoholics and alcohol abusers.

I would like to point out, Mr. President, that the bill as introduced does not set specific authorization levels. These levels will be added by the subcommittee following our hearings, during which I anticipate that the administration and witnesses involved in all aspects of the alcoholism field will present their funding recommendations.

Mr. President, I ask that the section-by-section analysis and text of the bill be printed in the RECORD.

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

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE—REFERENCE TO ACT

SECTION. 1. (a) This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a Section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, and Rehabilitation Act of 1970.

SEC. 2. (a) Section 2 (a) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8) and amending it to read as follows:

"(8) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services and with the cooperation of law enforcement agencies, employers, employee associations, and associations of concerned individuals."; and

(3) by inserting after paragraph (6) the following paragraph:

"(7) alcohol abuse and alcoholism, together with abuse of other legal and illegal drugs, present a need for preventing and informational programs designed to reach the general population and members of particularly vulnerable groups such as youth and families of alcohol abusers and alcoholics; and".

(b) Section 2 (b) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and abuse of other legal and illegal drugs;

"(4) the development and encouragement of effective occupational prevention and treatment programs within government and in cooperation with the private sector; and".

SEC. 3. (a) Section 101 (b) is amended by inserting "after consultation with the Executive Director of the Domestic Council" after "Secretary".

(b) Section 101 (c) is amended by adding at the end thereof the following new sentence: "The Director, if authorized by the National Advisory Council on Alcohol Abuse and Alcoholism, may obtain (in accordance with section 3109 of title 5 of the United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than 100 experts or consultants who have scientific or professional qualifications."

SEC. 4. Section 102 is amended—

(1) by inserting "and" after the semicolon at the end of paragraph (3);

(2) by striking "; and" after paragraph (4) and substitute a period; and

(3) by striking out all that follows the "." inserted by the preceding paragraph. Paragraph (5) and all that matter following such paragraph.

Sec. 5 (a) Section 103 (a) is amended to read as follows:

"(a) The President shall establish an Interdepartmental Committee on Federal Activities for Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the 'Committee'). The Committee shall (1) evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to increase and maintain the coordination and effectiveness of such programs and activities, (2) seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws, and (3) monitor, in cooperation with the Institute, the establishment and operation of occupational alcoholism and alcohol abuse prevention and treatment programs among Federal contractors.".

(b) Section 103 (b) is amended to read as follows:

"(b) The Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism (hereinafter referred to as the 'Director'), shall serve as Chairman of the Committee, the membership of which shall include (1) representation with policy level authority and appropriate scientific, medical, or technical expertise from the Department of Transportation, the Department of Justice, the Department of Defense, the Department of Treasury, the Veterans' Administration, and such other Federal departments, agencies, and offices as the President determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the President from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Executive Director of the Domestic Council shall serve as an ex officio member. The Committee shall meet at the call of the Chairman, but not less often than four times a year.".

(c) Section 103 (e) is amended by striking out "Secretary" and substituting "President, acting through the Secretary or otherwise,".

(d) Section 103 is further amended by adding at the end thereof the following new subsection:

"(f) The President shall submit to the Congress every two years, at the end of said calendar year, beginning with the first submission no later than the end of calendar year 1980, a report on the extent to which Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism, and on the prevalence of occupational alcoholism and alcohol abuse prevention and treatment programs among Federal contractors. Such report shall be prepared by the Committee and under the general supervision of the Chairman.

(e) The Interagency Committee on Federal activities for Alcohol Abuse and Alcoholism is hereby dissolved.

SEC. 6. Such Act is amended by inserting following section 103 the following new section:

"INTRADEPARTMENTAL COMMITTEE

"Sec. 104. The Secretary shall establish an Intradepartmental Committee on Departmental Activities on Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the 'Intradepartmental Committee'). The Intradepartmental Committee shall (1) evaluate the adequacy and technical soundness of all Departmental policies, programs, and activities which relate to alcoholism and alcohol abuse and provide for the coordination and exchange of information necessary to increase and maintain the coordination and effectiveness of such policies, programs, and activities, and (2) seek to coordinate efforts undertaken to deal with alcoholism and alcohol abuse in carrying out the provisions of law administered by the Department. The Director, acting on behalf of the Secretary, shall serve as Chairman of the Intradepartmental Committee, the membership of which shall include representation with policy level authority and appropriate scientific, medical, and technical expertise from the Office of Civil Rights, Office of the General Counsel, Office of Assistant Secretary for Management and Budget, Office of Assistant Secretary for Personnel Administration, Office of Assistant Secretary for Planning and Evaluation, Office of Human Development, Office of Education, Health Care Financing Administration, Social Security Administration, Public Health

Service and its appropriate component agencies, and such other offices as the Secretary determines administer responsibilities directly affecting the Department's response to alcoholism and alcohol abuse problems. The Intradepartmental Committee shall meet at the call of the Chairman, but not less often than four times a year. The Secretary, acting through the Director or otherwise, shall make available to the Intradepartmental Committee such staff, information, and other assistance as it may require to carry out its activities effectively.".

SEC. 7. (a) Section 201 (a) is amended—

(1) by striking out "Civil Service Commission" and substituting "Office of Personnel Management";

(2) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code, as amended by the Civil Service Reform Act of 1978" following "other Federal agencies and departments"; and

(3) by inserting "and their families" after "Federal civilian employees".

(b) Section 201 (b) is amended to read as follows:

"(b) (1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

"(2) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities, taking into account the number of employees, geographical location, proximity to other concerns and entities, and availability of existing services from public agencies and private organizations. With respect to small business concerns, the Secretary, acting through the Institute, shall consult with the Small Business Administrator in the development of model programs affecting such concerns.

"(3) With respect to business concerns and governmental entities which employ individuals represented by labor organizations, such model programs shall be designed to operate through the collective bargaining process.

"(4) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 303 of this Act, and shall provide technical assistance to such agencies as requested.".

SEC. 8. Section 301 is amended—

(1) by striking out "and" following "September 30, 1978,"; and

(2) by inserting "and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1982," after "September 30, 1979,".

SEC. 9. Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(e) On the request of any State, the Secretary shall make available technical assistance for the purposes of developing and improving systems for data collection; program management, acountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance to Federal requirements of hospitals and other facilities; and implementing the provisions of the Uniform Alcoholism and Intoxification Treatment Act through model education and training packages for personnel at State and community levels. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Drug Abuse Office and Treatment Act of 1972, as amended. The fair market value of such technical assistance shall be deducted from such State's allotment under section 302 of this Act and from such State's allotment under section 1176 of title 21, United States Code, in such apportionment as the Secretary may prescribe. The amount by which such State's payment under section 301 of this Act is reduced pursuant to this subsection shall be available for payment of the costs of providing such technical assistance, but shall for purposes of determining the allotment under section 302 (a), be deemed to have been paid to the State.".

SEC. 10. (a) Section 203 (a) is amended—

(1) by inserting "women, youth, families of alcoholics and alcohol abusers," after "minority and poverty groups," in paragraph (3);

(2) by inserting after subparagraph (4) (B) the following new subparagraph:

"(C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to subparagraph (A) is coordinated with and not duplicative of the drug abuse and dependence survey conducted pursuant to section 1176 of title 21, United States Code;";

(3) by inserting ", with State and local drug abuse planning agencies," after "alcoholism and alcohol abuse planning agencies," after "alcoholism and alcohol abuse planning agencies" in paragraph (12);

(4) by striking out "and" at the end of paragraph (15);

(5) by redesignating paragraph (16) as paragraph (17); and

(6) by inserting following paragraph (15) the following new paragraph:

"(16) provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 201 (b) of this Act; and

"(C) will furnish technical assistance as requested to such business concerns and governmental entities; and".

(b) Section 303 (b) is amended by inserting at the end thereof the following new sentence "To the extent feasible, the Secretary shall assist States in coordinating data collection required by this Act with that required by section 1176 of title 21, United States Code.".

(c) Section 303 (c) of such Act is amended by inserting "and an evaluation of the extent to which other State programs and political subdivisions throughout the State are concerned and dealing effectively with the problems related to alcohol abuse and alcoholism" after "implementation of its State plan".

SEC. 11. Section 310 (a) is amended by striking out "1979" and inserting in lieu thereof "1982".

SEC. 12. (a) Section 311 (a) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as (2), (3), (4), and (5), respectively;

(2) by inserting before the newly designated paragraph (2) the following new paragraph:

"(1) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects in occupational and educational settings and on modified community living and workcare arrangements such as halfway houses, recovery homes, and supervised home care,";

(3) by striking out "conduct demonstration and evaluation projects, including projects designed to develop" and substituting "support projects of a demonstrable value in developing" in the newly designated paragraph (2); and

(4) by inserting after "and alcohol abusers, families of alcoholics and alcohol abusers" after "female alcoholics" in the newly designated paragraph (3).

(b) Section 311(b) is amended by inserting "(in the case of prevention and treatment services)" preceding "to insure care of good quality".

(c) Section 311(c)(4) is amended to read as follows:

"(4) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of alcohol abuse and alcoholism and their consequences among women and youth.".

SEC. 14. (a) Section 312 is amended—

(1) by striking out "and" following "September 30, 1979,"; and

(2) by inserting "and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1982, not less than 8 percent of which shall be devoted to programs intended wholly or in part to prevent the occurrence, recurrence, or spread of alcoholism or alcohol abuse," after "September 30, 1979".

SEC. 14. (a) Section 312 is amended—

(1) by redesignating such section as section 313;

(2) by striking out "sections 310 and 311" and inserting in place thereof, "sections 310, 311, and 312";

(3) by striking out "and" following "September 30, 1979,"; and

(4) by inserting "and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1982, not less than 8 percent of which shall be devoted to programs intended wholly or in part to prevent the occurrence, recurrence, or spread of alcoholism or alcohol abuse.".

(b) Such Act is further amended by inserting the following new section following section 311:

"Sec. 312. (a) To assist States which are taking steps through their insurance regulatory systems to treat alcoholism and alcohol abuse equivalently with other chronic health conditions, the Secretary, acting through the Institute, shall, during the period beginning October 1, 1979, and ending September 30, 1982, make grants to such States for demonstration and implementation of programs designed to achieve such equivalence. A grant under this section to any State may be made for such costs (as determined in accordance with regulations promulgated by the Secretary) as may be incurred by such State, political subdivisions thereof, medical facilities, or public or private organizations involved in such demonstration or implementation.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State unless he determines the following:

"(1) The State, through its insurance regulatory system, is committed to eventual coverage of alcoholism and alcohol abuse equivalently with other chronic health conditions under all comprehensive public and private health insurance systems operating within the State.

"(2) Each public or private health insurance plan provided by the State or any political subdivision thereof to its own employees has set forth a plan for coverage of alcoholism and alcohol abuse equivalently with other chronic health conditions.

"(3) The State proposes to conduct a demonstration project or to implement a requirement through its insurance regulatory process that will constitute significant prog-

ress towards its goal of coverage of alcoholism and alcohol abuse equivalently with other chromic health conditions.

"(c) The amount of any grant under this section to any State for any fiscal year may not exceed the sum of $150,000 and an amount equal to 20 percent of the allotment of such State for such fiscal year under section 302 of this Act. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary."

SEC. 15. Such Act is further amended by inserting after section 321 the following new section:

"SEC. 322. (a) Alcoholic abusers and alcoholics who are suffering from personal, emotional, or social conditions shall not be discriminated against in admission or care, solely because of their alcohol abuse or alcoholism, by any private or public social service, mental health, intermediate care, rehabilitation, or other service-related facility which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) The Secretary shall issue regulations not later than 12 months after the enactment of this section for the enforcement of the policy of subsection (a) with respect to the admission and care of alcohol abusers and alcoholics in facilities covered by this section. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a facility which receives support of any kind from any program administered by the Secretary and subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all on part of any support of any kind received by such facility from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which a facility covered by subsection (a) receives support of any kind, with respect to the suspension or revocation of Federal support for such facility found to violate such subsection.".

SEC. 16. (a) Section 217(a) of the Public Health Service Act is amended, in the fourth sentence thereof, by inserting "Appointed members may serve after the expiration of their terms until their successors have taken office." at the end of clause (3).

(b) Section 217(d) of the Public Health Service Act is amended by inserting "and to evaluate the results of such projects or programs," preceding "and (2) to collect information".

SEC. 17. (a) Section 501(a)(1) is amended to read as follows:

"(1) the social, behavioral, and biomedical etiology of,".

(b) Section 501(b) is amended—

(1) in paragraph (3), by inserting ", with particular emphasis on understanding the relationship between alcohol abuse and domestic violence, the effects of alcohol use during pregnancy, and the relationship between the abuse of alcohol and other drugs" before the ";";

(2) in paragraph (5)—

(A) by inserting ", to the extent practicable to further the purposes of this Act," following "promote";

(B) by inserting "the National Institute of Drug Abuse and by" following "similar programs conducted by"; and

(C) by inserting "departments," preceding "agencies";

(3) in paragraph (6), by striking out "biomedical and behavioral" and substituting "biomedical, behavioral, epidemiological, and social"; and

(4) in paragraph (8), by inserting "and other scientific research" following "statistical".

SEC. 18. Section 502 is amended—

(1) by striking out "and" following "treatment,"; and

(2) by inserting ", and evaluation" following "prevention".

SEC. 19. Section 503 is amended—

(1) by striking out "and" following "September 30, 1978"; and

(2) by inserting ", and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1982," following "September 30, 1979".

SEC. 20. (a) Section 504(a) is amended—

(1) by striking out "alcohol problems" and inserting in lieu thereof "biomedical, behavioral, and social issues related to alcoholism and alcohol abuse";

(2) by inserting "or constortium of entities" following "entity";

(3) in subparagraph (1) (B), by striking out "laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature," and inserting in place thereof "facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan proposed to be conducted under this section;";

(4) in subparagraph (1) (D), by striking out "and" at the end thereof;

(5) in subparagraph (1) (E), by striking out "medical and osteopathic students and physicians;" and inserting in lieu thereof "medical, nursing, social work, osteopathic, and other specialized graduate students;"; and

(6) by inserting following subparagraph (1) (E) the following:

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, or social service fields as the Secretary may require; and

"(G) the Secretary finds that designating such Center will not dilute funds available for existing Centers in such a manner as to hamper their ability to carry out the provisions of the research plans submitted under subsection (a) (2);".

(b) Section 504(b) is amended—

(1) in the first sentence thereof, by inserting "or contracts" after "grants";

(2) in the second sentence thereof, by inserting "or contract" after "grant"; and

(3) in the third sentence thereof by inserting "or contract" after "grant".

(c) Section 504(c) is amended by striking out the "." at the end thereof and substituting ", and such sums as may be necessary for each succeeding fiscal year ending prior to October 1, 1982.".

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION ACT AMENDMENTS OF 1979

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title.

Sec. 2. Findings and Purpose.

Amends section 2 to emphasize need of cooperation with employers, employee associations, and other groups; to highlight prevention programs aimed at the general population and vulnerable groups including youth and families of alcoholics; and to emphasize both prevention and occupational programs as primary concerns.

Sec. 3. NIAAA.

In light of the proposed role of the NIAAA Director in acting for the Secretary in chairing the Interdepartmental Committee established under Sec. 5 of these amendments, calls for Secretary to consult with Executive Director of Domestic Council in appointing Director; clarifies NIAAA authority to hire scientists and other professionals as consultants, if approved by NIAAA Advisory Council.

Sec. 4. Reports by the Secretary.

Deletes requirement of report by Interagency Committee abolished under Sec. 5 of these amendments.

Sec. 5. Interdepartmental Committee.

Replaces Interagency Committee with Interdepartmental Committee on Federal Activities for Alcohol Abuse and Alcoholism, chaired by the Secretary acting through the NIAAA Director; requires policy level representation of appropriate Departments on such Committee; makes Executive Director of Domestic Council an ex officio member; and requires biennial report on Federal activities and the prevalence of occupational programs among Federal contractors.

Sec. 6. Intradepartmental Committee.

To enable Director to coordinate HEW activities at a lower level than through the Interdepartmental Committee; establishes Intradepartmental Committee within HEW.

Sec. 7. Federal Civilian Employees.

Reconciles Act with Civil Service Reform Act by recognizing Office of Personnel Management and requiring compliance with statutory collective bargaining procedures; makes families of Federal employees eligible for services. Instructs Secretary to develop model occupational programs.

Sec. 8. Authorization for Formula Grants.

Authorizes (pending hearings) such sums as may be necessary for the next three years.

Sec. 9. Technical Assistance.

Authorizes provision of technical assistance to States, emphasizing coordination of data collection; program management and evaluation; certification, accreditation, or licensing; and related areas where NIAAA and NIDA activities may be parallel.

Sec. 10. State Plans.

Emphasizes women, youth, families of alcoholics along with minority and poverty groups on State advisory councils; requires coordination with NIDA drug abuse and dependence survey and planning; and requires evaluation by States of effectiveness of other State programs and political subdivisions in dealing with alcohol-related problems. Requires States to encourage and assist occupational programs.

Sec. 11. Uniform Act Grants.

Extends authorization for special grants to implement Uniform Alcoholism and Intoxication Treatment Act.

Sec. 12. Project Grants and Contracts.

Gives priority to demonstration and evaluation projects concerned with prevention and early intervention in occupational and educational settings and to modified community living and work-care arrangements; authorizes continued support of effective projects; adds emphasis on families of alcoholics along with ethnic minorities, native Americans, youth and women.

Sec. 13. Insurance Incentive Grants.

Establishes new grant program for demonstration and implementation of insurance regulations to treat alcoholism and alcohol abuse equivalently with other chronic health conditions.

Sec. 14. Authorization for Project Grants.

Authorizes (pending hearings) such sums as may be necessary for next three years; requires that at least 8 per cent of appropriations be devoted to prevention activities.

Sec. 15. Service-related Facilities.

Prohibits discrimination, solely because of alcohol abuse and alcoholism, by social service, mental health, intermediate care, rehabilitation, or other service-related facilities supported wholly or in part by Federal funds.

Sec. 16. NIAAA Advisory Council.

Authorizes appointed members to serve until their replacements take office; instructs Council to evaluate results of projects.

Sec. 17. Encouragement of Research.

Includes social consequences of alcohol abuse as subject of research; emphasizes relationship with domestic violence, effects of alcohol use during pregnancy, and relationship with abuse of other drugs; emphasizes coordination with NIDA programs.

Sec. 18. Peer Review.

Includes evaluation in peer review process.

Sec. 19. Research Authorizations.

Authorizes (pending hearings) such sums as may be necessary for next three years.

Sec. 20. National Alcohol Research Centers.

Specifies research on biomedical, behavioral, and social issues; authorizes designation of consortia as Centers; requires laboratory, reference and data analysis facilities suited to research plan; requires capacity to provide both graduate medical, nursing, social work, and osteopathic education and continuing education for practicing professionals in legal, medical, or social service (in addition to undergraduate programs); restricts Secretary in designating new Centers unless they will not dilute progress under research plans of existing Centers; authorizes grants as well as contracts; and authorizes (pending hearings) such sums as may be necessary for next three years.

Report Language will cover a number of additional issues, including coordination of NIAAA activities with funds available from other sources (including community education, CETA, ACTION, and similar authorizations); relationship of States to administration of continuing project grants; congressional intent regarding purposes of National Centers; role of Executive Director of Domestic Council in assisting Interdepartmental Committee; compliance with employment protections under the Rehabilitation Act and its coordination with NIAAA; etc.●

By Mr. DOLE (for himself, Mrs. KASSEBAUM, Mr. HATCH, Mr. MCCLURE, Mr. STEWART, Mr. COCHRAN, and Mr. YOUNG):

S. 441. A bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes; to the Committee on Finance.

MEAT IMPORT ACT OF 1979

● Mr. DOLE. Mr. President, in the closing days of the last session of Congress, a Beef Import Act was passed by an overwhelming margin in the House of Representatives and with corresponding support here in the Senate. Senators BENTSEN, Curtis, Bartlett, and many others, including this Senator, spent countless hours working on beef import legislation, and we were convinced that the bill which finally passed Congress was a piece of legislation that would serve both the consumer and producer in a rational and economically effective manner. Unfortunately, the President vetoed the legislation. In so doing, he took a rather dogmatic approach to the bill—trying to protect his own authority rather than the interests of the millions of people in this country involved in beef production and consumption.

History has dictated the need for a revision of the current Meat Import Act—enacted in 1964. We have learned since that date that without a countercyclical formula on which import levels are based, our cattle producers, related industries, and consumers suffer from irregular supplies and fluctuating prices. In fact, even the President admits that the countercyclical formula is necessary.

The bill I am introducing today is simply a reaffirmation of what we in the Congress recognized last session. It incorporates the same formula which will permit more beef imports—about 1.7 billion pounds more to be exact—to enter our country over the next 10 years than if the current law is maintained. It will dampen the drastic price fluctuations that have such a crippling impact on producers and consumers. The formula, in effect, will promote a balance between supply and demand, taking into account the role imports must play in supplying the domestic market.

In his memorandum justifying the veto of the last session's bill, the President really raised two arguments—both of which had nothing to do with U.S. consumers or producers. First, he disapproved the bill because it did not provide a big enough guarantee to foreign interests for access to our market. It should be pointed out to the President that in the past, there has been no guarantee of minimum access, that any guarantee is pure and simple charity on our part. I also think that this minimum access argument was an attempt to disguise the real reason for the veto.

The real reason for the President's veto was that Congress was attempting to restrict the authority it had originally bestowed upon him in 1964. The restriction of that authority would not be detrimental to anyone interested in beef prices. The restriction would simply require that in order to step outside the import quota formula, it will have to be done for economic, rather than political, reasons.

The bill I am introducing attempts to find a compromise that will mollify the President's need for authority and yet still recognizes the basic economic interests of producers and consumers. I am proposing that the President may suspend or increase quotas only in times of a national emergency or when, for two consecutive calendar quarters, the ratio of cattle prices to beef and veal prices is greater than or equal to 1.10. The President could take action based on this ratio for up to two calendar quarters and then would have to fulfill strict criteria in order to renew his action. He would also have to give 30-day notice to allow public comment before he acts.

The result of this formula will be less restrictive than the approach adopted in last year's legislation. It will, however, be tight enough that the president could not act under market conditions such as those that existed in the summer of 1978. At that time, the President had acted to increase beef import quotas by 200 million pounds. His action had been motivated by a number of political factors. It was not taken on sound economic reasoning nor with recognition of how the action would prejudice the cattle industry which was just beginning to climb out of 4 years worth of financial disaster. My formula would protect the industry from such untimely and ill-advised actions.

I think it is time that we put the beef situation in its proper perspective. We are fooling ourselves if we think that we can continue to obtain quality beef products at prices we experienced a few years ago. Those prices were rockbottom because the cattle-producing sector was at rockbottom. When prices are low, the majority of people in the country are pleased because they can buy more beef. But, low prices also mean that U.S. producers suffer to the point of going out of business. We witnessed a definite erosion of our cattle-producing sector during the low point of the last cattle cycle. Unless the situation changes and prices are balanced to benefit both consumers and producers, the erosion of the sector will continue in the next inevitable low point of the cattle cycle. Let this happen too many times and the consumers will be complaining about the high cost of imported beef—because that will be the basic source of supply.

I have withheld introducing or cosponsoring any meat import legislation until I could judge what the balance was between the positions of the administration and the cattle industry. It is fairly clear what the administration wants. It also is fairly clear, now, that the cattle ranchers do want to pursue meat import legislation in this session of Congress. They will be supporting the concepts of the vetoed bill but will be willing to rethink the extent to which the President's authority should be limited. My bill attempts to establish a compromise position from which we can work.

It is clear that some legislation correcting the current provisions in the law is necessary; Congress and even the President agree on that point. The bill I am placing before you will establish an equilibrium in our market that must be attained if we are to protect a vital sector of our agricultural economy. Without a new meat import program, we can only look forward to another 10 years of huge price swings, ranchers going out of business, and consumers suffering the consequences.●

By Mr. EAGLETON:

S. 442. A bill for the relief of Isaac N. Hulver of Kansas City, Mo.; to the Committee on the Judiciary.

ISAAC N. HULVER

● Mr. EAGLETON. Mr. President, I am reintroducing a private claims bill for the relief of a wounded World War II veteran. Mr. Isaac "Ike" N. Hulver of Kansas City, Mo. Last year I introduced this identical legislation late in the session and unfortunately, the Judiciary Committee was not able to act on this matter prior to the end of the session.

In 1976, the U.S. district court in Kansas City awarded Mr. Hulver $202,298.12 in damages because of negligent medical treatment he received from a doctor at a Veterans' Administration hospital. Because of this negligence, Mr. Hulver can no longer work, he can barely walk. Even though the U.S. circuit court of appeals in St. Louis was silent on the issue of negligence it reversed a district court's ruling in favor of Mr. Hulver because of

a legal technicality. Recently, the U.S. Supreme Court has announced it will not review this case.

Mr. President, following my remarks I will include in the RECORD a summary of Mr. Hulver's situation as reported by the Kansas City Star. I will also include an editorial that appeared in the April 10, 1978, issue of the Kansas City Star, regarding this same matter. After reading these two articles I think my colleagues will agree that Mr. Hulver has suffered immeasurably because of negligence on the part of the doctor at the Veterans' Administration hospital. The ultimate responsibility for this malpractice must be borne by the Federal Government. Therefore, I am proposing that Mr. Hulver receive payment from general revenues in the amount he was awarded in damages by the district court judge. In my years in the Senate I have never before introduced a private claims bill, but, in this unique situation, action of this type is justified.

Mr. President, I ask unanimous consent that the articles to which I have referred be printed in the RECORD.

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

[From the Kansas City Star]

SAD END TO EX-GI'S "OVERSIGHT"

(By Harry Jones, Jr.)

The U.S. Supreme Court already has written an unhappy ending to this story—unhappy, anyway, for Isaac "Ike" Hulver, who is 65.

He was Private Hulver, a 33-year-old draftee, the morning of Dec. 1, 1944, the day this story began.

Ike had felt himself lucky when he awoke that morning. It had been the first night's sleep in several that he had spent under a roof. The roof was on a barn, true, and Ike was outside Saarbrucken, Germany, fighting World War II at the time. But a roof is a roof and Ike appreciated that one.

It was cold outside and foggy. A road lay ahead. Ike's lieutenant ordered him and another GI to advance to it and scout the area. Germans were nearby but they did not know how near.

The two soldiers advanced to the road, saw nothing threatening in view and signaled to the lieutenant that the rest of his squad could advance.

Ike had signaled by raising his M–1 rifle over his head with both hands, then had relaxed and lit a cigarette.

Suddenly he saw movement from behind a railroad embankment. It was a German soldier. He fired twice at the soldier and, although an expert marksman, missed both times. The German retaliated with a long burst from his machine gun.

One bullet caught Ike's buddy between the eyes and he fell forward, dead. Five other bullets hit Ike—one in the right knee, three in the abdomen, one in the chest, puncturing a lung.

Ike managed to crawl back to his outfit but 45 minutes later, as he was lying on his back, an 88-millimeter shell burst in a tree above him and riddled his body wth shell fragments.

That was the end of World War II for Ike Hulver, who now lives at 2808 N.E. 45th. He spent the next seven months in military hospitals where he underwent 15 operations. In July 1945 he was discharged with a 100 per cent disability rating.

A year later that was reduced to 70 per cent disability and a little later was raised to 80 per cent. It has remained at that level since. He now receives a government check of $410 a month.

Ike worked as a monotype operator for The Star from 1953 until 1971. The job required him to do a great deal of lifting all day—35-pound, hot metal "pigs" and 25-pound galleys made from the "pigs," between 200 and 300 of them each day.

It had taken Ike three years to learn how to walk. His right leg, because of one bullet wound, would bend in either direction at the knee instead of just back. Until he learned to walk, he found himself falling frequently whenever the leg bent in the wrong direction.

After consulting with his private physician, he went to the Veteran Hospital here in 1968 complaining of pain and numbness in his right hip and leg. It was determined that he needed a bilateral aortoiliac endarterectomy—removal of mineral deposits in the artery leading to his right leg to improve his circulation.

As Ike related it in an interview at his home earlier this week—and as he testified in federal court in 1976—when told by the surgeon at the VA hospital that X-rays had shown a small mineral deposit in the artery leading to his left leg, he specifically told the doctor not to touch his left leg—this was the leg he had favored since the war and he wanted nothing done to it.

He said the surgeon was from Argentina and spoke poor English. He thought the doctor understood him, however, he said.

After undergoing surgery Oct. 17, 1968, he awoke the next day to find his left leg numb. His right leg, however, was improved.

As described in a ruling by the 8th U.S. Circuit Court of Appeals in St. Louis: "As a result of the operation, plaintiff's (Ike's) left leg, which had previously caused him no pain or trouble, was disabled by a clot that formed in the left branch of the arterial tree in the weeks following the operation. In addition, his sexual function was seriously impaired."

He returned to the hospital in December 1968 for corrective surgery by the same surgeon. The surgeon's attempt to remove the clot, however, was unsuccessful.

He underwent surgery a third time on March 10, 1969, this time by a different surgeon, who inserted a plastic tube for part of the artery in a bypass operation.

Friends familiar with his leg problems began urging him to sue the government over the October operation. Finally, in late 1970, he went to see William Pickett, a lawyer. Pickett investigated the case and filed notice of a lawsuit in Feb. 18, 1971—two years and four months after the first operation, one year and 11 months after the third operation.

Ike quit his job at The Star. His legs could not stand the strain.

Pending trial, he continued to go to hospitals for more operations. He underwent two at the North Kansas City Memorial Hospital in 1973 and two more at the Mayo Clinic in Rochester, Minn., in 1974 and 1975.

He was out of work. He could no longer pursue his two favorite hobbies—hunting and flying. He was sexually impotent (a nerve had been cut accidentally in the October 1968 operation). And he could barely walk.

The case went to trial before Judge William H. Becker in the U.S. District Court here in 1976. It lasted three days.

The judge ruled in his favor and awarded him $202,298 in damages.

The judge found that Ike had proved negligence in the October 1968 operation when the surgeon elected to perform work on Ike's left leg after having been told not to and in the post-operative care provided him by the VA Hospital staff.

But there was another issue before the court and it was this that led to the unhappy ending provided Monday by the Supreme Court.

The statute of limitation on this type of case is two years—in other words, Ike was required by law to file his lawsuit within two years of the time he "discovered, or in the exercise of reasonable diligence should have discovered" that he had been the victim of malpractice.

Judge Becker ruled that Ike "proved by a preponderance of the evidence that he did not discover the alleged acts of malpractice which he contends caused his sexual impairment and the impairment of the functions of his left lower extremity until after Feb. 18, 1969."

Ike had maintained he did not become aware of the actual cause of his problems with his left leg and his sexual capacity until *after* undergoing the third operation, at which time the new surgeon explained to him what had gone wrong in the first operation.

The Justice Department decided to appeal Judge Becker's ruling. It based its appeal on the statute of limitations issue solely, not arguing the negligence ruling.

The Eighth U.S. Circuit Court of Appeals in St. Louis overruled Judge Becker in October of last year. The appeals court said that while it supported the finding of negligence in the first operation, Ike should have known he had been the victim of malpractice shortly after the first operation and well before the third operation.

In other words, it ruled, Ike had filed his lawsuit a few months too late.

Pickett appealed that decision to the U.S. Supreme Court. The Supreme Court announced Monday it had decided not to hear the appeal.

[From the Kansas Cty Star, Apr. 10, 1978]

WHEN JUSTICE IS ERODED

The first reaction to the Isaac "Ike" Hulver case is a burst of emotion. How can this 65-year-old war-scarred veteran, the victim of gross medical malpractice, be turned away by the courts in his attempt to recover damages for his permanent impairments from surgery? Even on reflection it is a fair and appropriate question—one that unfortunately raises doubts about the capability of our system to deliver justice in a compassionate and equitable way.

A ruling by a federal appellate court prevented Hulver from receiving the $202,298 that he was awarded by a federal district jurist here. From the lay person's view, the appeals decision appears to hand on a technicality. Namely that the statute of limitations expired shortly before the case was filed. This was a reversal of the district court judge who had listened to witnesses and made a determination that the case had indeed been filed before the deadline.

The U.S. Supreme Court has refused to consider the case, which leaves standing the ruling against Hulver. That means the damages, unless there is further legal action or an administrative ruling in the executive branch of the government, will not be paid by the federal government.

It is difficult to say where the fault in this case lies. But we are troubled deeply by the results. The ultimate responsibility for this malpractice, which occurred in a Veterans Administration hospital, must be borne by the federal government. The case was defended by federal attorneys in the line of their duty. They did not contest the ruling on negligence in their appeal; that action was based on the law that prohibits legal action being taken after a prescribed time has elapsed. Had the Justice Department not appealed the district court decision that favored Hulver, he would have received the settlement.

We submit that justice, irrespective of the

narrow interpretation of the law, has suffered in this instance. It may stand as a good legal exercise. It does not stand the test of equity under the law. Perhaps this injustice can be remedied by the Veterans Administration, further litigation or by a special appropriation by Congress. But something needs to be done—and fast.●

By Mr. PERCY (for himself and Mr. ROBERT C. BYRD):

S. 445. A bill to reorganize Federal regulatory agencies to prevent excessive, duplicative, inflationary, and anti-competitive regulation, and to make regulation more effective and responsive to the public interest; to the Committee on Governmental Affairs.

REGULATORY REFORM ACT OF 1979

Mr. PERCY. Mr. President, I am very pleased to introduce today, along with the distinguished majority leader, Senator ROBERT BYRD, the Regulatory Reform Act of 1979.

Senator BYRD and I have worked together on this legislation since we introduced the first version in December, 1975. The bill went through a careful hearing process in 1977, and we were very pleased when a modified version of it was accepted by the Senate last fall as an amendment to S. 2, the Sunset Act.

During the evolution of the legislation, the Governmental Affairs Committee has been conducting what Chairman ABE RIBICOFF described as "the most comprehensive study of the Federal regulatory agencies ever undertaken by the Congress." The study, which has produced six volumes on various aspects of Federal regulation, was authorized by Senate Resolution 71 in 1975. Several deficiencies in the regulatory process were examined, and, in volume II, the committee recommended that:

In order to enhance systematic Congressional review of regulatory agencies, Congress should require that all regulatory agencies be made subject to a periodic reauthorization process. In-depth scrutiny of the agencies should be assured by requiring a thorough review of an agency's activity before it may be reauthorized. Under a "sunset" device, agencies with similar functions should be reviewed in the same years.

We were to find that the Governmental Affairs Committee was not alone in its endorsement of sunset for regulatory agencies. During our 1977 hearings on the Regulatory Reform Act, a wide range of groups, individuals, and businesses endorsed the bill. I am attaching a list of supporters of the bill at the end of my statement, including such prominent groups as Common Cause, the American Bar Association, and the Business Roundtable.

Mr. President, during the hearings 2 years ago, several witnesses testified in support of the concept of sunset for regulatory agencies but expressed concern that it should be limited to a pilot program in the first years. I intend to explore this suggestion further in the coming months. As presently drafted, our bill would subject 32 agencies to a sunset review over an 8-year period. This is far from a complete listing of all Federal regulatory bodies. However, we will solicit the views of a wide range of interests on both the number of agencies covered and on specific additions or deletions which might be desirable.

NEED FOR REFORM

Regulatory reform has garnered much attention in the recent years as Americans have begun to realize the impact regulation has on the economy. The actual cost of regulation is difficult to ascertain. There is, of course, the estimated $5 billion we will spend in 1979 to fund the agencies themselves. This is not, however, the cost which alarms so many students of our economy. Rather, it is the cost to the economy of complying with the many regulations issued by these agencies. Estimates vary considerably, but according to Commerce Secretary Kreps, the cost of compliance by private industry is between $60 and $130 billion each year.

The following chart, excerpted from a Library of Congress study of regulatory costs, suggests where some of the greatest burden lies.

Annual cost of Federal regulation, by area—1976

[In millions of dollars]

Area	Administrative cost	Compliance cost	Total
Consumer safety and health	1,516	5,094	6,610
Job safety and working conditions	483	4,015	4,498
Energy and environment	612	7,760	8,372
Financial regulation	104	1,118	1,222
Industry specific	474	26,322	26,796
Paperwork	(1)	18,000	18,000
Total	3,189	62,309	65,498

(1) Included in other categories.

SOURCE.—DeFina, Robert. Public and Private Expenditures for Federal Regulation of Business. (Working Paper No. 22.) St. Louis, Washington University Center for the Study of American Business, 1977. p. 3.

These additional costs place enormous pressure on the domestic economy. Barry Bosworth, Director of the Council on Wage and Price Stability, noted last summer that the cost of regulation could be responsible for as much as three-quarters of a percentage point in the rate of inflation.

At the heart of inflation is our declining productivity growth rate. Between 1955 and 1965, when inflation was a mere 1.5 percent a year, labor productivity grew at over 3 percent annually. Since 1965, however, our productivity growth has slowed to less than 2 percent a year while inflation grew steadily to a peak of 11 percent in 1974.

Regulation is certainly not the sole reason for this decline, but it has had a significant impact as resources have been shifted from investment in plant and equipment to meeting government rules and regulations. Edward Denison of the Brookings Institution estimated that in 1975 the effect of private expenditures for environmental safety and health regulations and for crime prevention had cut our productivity growth by 20 to 25 percent. In addition, the regulatory burden has contributed to the shift of industry's research and development activity away from basic research and new product development, which has significantly impaired our capacity to innovate.

Regulation can also choke off competition and prevent new firms and ideas from entering the marketplace. The Interstate Commerce Commission's rules alone are estimated to cost $4 to $6 billion a year. The best example of how less regulation can benefit consumers and business alike is airline deregulation. Air fares have tumbled since the CAB began to get out of the way. At the same time, profitability of air carriers—large and small alike—has risen dramatically.

Mr. President, I am also greatly concerned about the impact of our current regulatory environment on Americans' perception of their government. I sense from my constituents and the businessmen I speak with that the Federal Government is not seen so much as a friend as it is an adversary. Regulation has often removed decisionmaking from the private sector and increasingly placed it in the hands of regulators who are immune from the ballot box and the marketplace. This is consistent with neither our democratic heritage nor our economic traditions.

APPROACH TO REFORM

It is clear that Congress can and must take steps to reduce the various costs of regulation. Substantial savings can be realized through administrative improvements in the regulatory process. The Governmental Affairs Committee's Study on Federal Regulation identified several administrative problems which contribute greatly to the overall costs of regulation such as delay, needlessly complex proceedings, and unqualified personnel. President Carter has begun to address these problems by establishing the Regulatory Council and requiring several new procedures through Executive order. Senator RIBICOFF and I have recently introduced legislation (S. 262) which will further improve the regulatory machinery in several respects.

Yet we must go beyond administrative reforms to a more fundamental review of the underlying purposes of regulation in order to determine whether we need regulation in a certain field, to what extent, and how it might best be structured. In some cases, such as the airline industry, actual deregulation is the answer. In others, the American people need and expect various forms of protection and our task is to determine whether that need is being met at the least cost.

S. 262 will make an important contribution to this process by requiring agencies to analyze the costs and benefits of major new regulations, review existing regulations, and increase opportunities for public comment. However, these procedures can only do part of the job since the regulators themselves will always be susceptible to the very human tendency to defend past mistakes and justify pet projects. What is needed to complement this process is a more objective, systematic analysis which can best be performed by Congress.

REGULATORY REFORM ACT OF 1979

The legislation we are introducing today provides such a mechanism for structured congressional oversight of Federal regulation. The bill focuses primarily on a zero-based analysis of regulation along sectoral lines. This will permit a comprehensive examination of the purpose, effectiveness, and efficiency of regulation in each major functional area. In addition, the bill calls for a review of the cumulative impact of regulation on particular industry groupings. Action-forcing provisions are included to insure congressional action in this important area.

Specifically, the Regulatory Reform Act requires the President to submit a reform plan to Congress every 2 years for an 8-year period according to the following schedule: 97th Congress (1981–82) energy, the environment, housing, occupational safety and health; 98th Congress (1983–84) transportation and communications; 99th Congress (1985–86) banking and finance, international trade, Government procurement; 100th Congress (1987–88) food, consumer health and safety; economic trade practices and labor management relations. Along with each plan, the President will report on specific industry impacts and recommend steps to improve regulatory performance.

The General Accounting Office and the Congressional Budget Office will submit reports to Congress at the same time that the President submits his plan. This should provide more thorough study and a wider perspective, and will make Congress less dependent on administration ideas. The GAO and CBO reports with assess the affected agencies with respect to:

The purposes for which each agency was established;

Significant changes which have occurred in regulated areas, the impact of such changes on agency effectiveness, and the continued appropriateness of original statutory purposes;

The net impact of the agency and the degree to which it has achieved its purposes;

The cost-efficiency of the operations of each agency; and

Practical, more efficient, alternative approaches to achieving those regulatory needs which currently must be served.

ACTION-INDUCING MEASURES

Both Congress and the Executive demonstrate a history of reluctance to take action in certain highly sensitive areas even where such action is clearly warranted. Regulatory reform is an unfortunate example. Rather than merely providing for a meaningless reform agenda, this legislation incorporates certain action-forcing measures. They are provisions requiring that:

The President must submit a reform plan to Congress by April 30 of the first year of each 2-year cycle.

The relevant committees must report a reform bill to the floor of each House by May 1 of the second year of each cycle.

If no comprehensive reform plan has been enacted by August 1 of the second year, the affected agencies lose their authority to issue any new rules except those essential for preserving public health and safety—a concurrent resolution of Congress would be needed to overturn an agency's certification to that effect.

If no comprehensive reform plan has been enacted by October 1 of the second year, enforcement of the existing rules of the affected agencies would be suspended, except those essential for preserving the public health and safety—again, a concurrent resolution of Congress would be needed to overturn an agency's certification to that effect.

If no comprehensive reform plan has been enacted by December 31 of the second year, each affected agency which has not been the subject of comprehensive reform would be terminated, unless other appropriate provision is affirmatively enacted by the Congress providing for the continuation of such agency.

The last "sunset" proposal will insure that neither the President nor Congress will duck consideration of reform. Altogether these provisions afford an incentive for affected agencies and regulated industries to cooperate in the process of reform. Due to institutional inertia or a misguided desire to preserve the status quo, certain agencies and affected industries have not been helpful in past reform efforts. Some have consistently resisted reform of any sort. Thus, the last two provisions eliminate the advantage an agency or regulated industry might otherwise expect to experience in working to kill reform legislation. If no legislation passes, agency rules—other than those essential to insuring public health and safety—would no longer have effect, and regulated industries would suddenly face unregulated competition.

Following the initial 8-year agenda from 1981 to 1988, Congress will have another 8 years to monitor the regulatory process before the comprehensive review cycle begins anew in 1997. In this way Congress will have the opportunity to review the results of its action prior to considering additional reform measures.

The American people want a responsive Government that helps them work efficiently and productively. Our present regulatory system too often does just the opposite. I believe Congress can help restore the public's faith in government and invigorate the economy by providing a disciplined agenda for reforming Federal regulation. Such reform is long overdue. Let us not pass up the opportunity.

Mr. President, I ask unanimous consent to have printed in the RECORD, the list of those who have endorsed the Regulatory Reform Act, a brief summary of the legislation and the text of the bill itself.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reform Act of 1979".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that Government regulation can at times be more of a burden than a benefit to American consumers, American businesses, and to the American economy as a whole.

(1) Regulatory policies have fueled inflation through approval of rules and regulations not commensurate with the public interest, frequently without due consideration of the relative costs and benefits involved in such decisions, or without due consideration of the competitive impact of such decisions.

(2) Some regulatory policies harm both industry and consumers by denying businesses the chance to compete and, thereby, depriving consumers of the lower prices and diversity of services that greater competition would present.

(3) Too often, regulatory agencies have squandered their limited resources by focusing on trivial aspects of regulation while neglecting critical economic issues. By failing to set clear priorities or to articulate cogent policies, certain agencies have fostered a pattern of bureaucratic stagnation and waste, and consequent public frustration and confusion.

(4) The outmoded and inefficient case-by-case adjudicatory approach of most regulatory agencies has burdened business with excessive paperwork and unreasonable delays, impaired the ability of many industries to adapt to changing market conditions and beneficial new technology, and contributed to price rises, inefficiencies, and misallocations of resources.

(5) By consistently failing to take consumer and small business interests adequately into account and by arbitrarily limiting the operation of the free enterprise system, regulatory agencies have poorly served the public interest often in disregard of their congressional mandates.

(b) It is the purpose of this Act to require over a period of eight years the President to submit at least once in each Congress, and to require the Congress to act upon, a plan designed to prevent unnecessary or harmful regulation because such regulation has led to inflationary consumer prices, a reduction of competition in providing of important goods and services, and other economic inefficiencies which distort and disrupt the operation of a free enterprise system without correspondingly benefiting the health, safety, or economic welfare of the Nation.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) "agency" has the same meaning as provided in section 552(e) of title 5, United States Code; and

(2) "rule" has the same meaning as provided in section 551(4) of title 5, United States Code, and includes any rulemaking, adjudication, agency proceedings, or agency action, as defined in paragraphs (5), (7), (12), and (13), respectively, of section 551 of title 5, United States Code.

AGENCY REORGANIZATION PLANS

SEC. 4. (a) Not later than the last day of April in each of the years referred to in

paragraphs (1) through (5) of this subsection, the President shall submit a plan containing the information required to be included under subsection (c) with respect to the following areas:

(1) Regulation of energy, the environment, housing, and occupational health and safety by the Federal Government, by the last day of April 1981, for the following agencies:

(A) Environmental Protection Administration;

(B) Energy Regulatory Administration;

(C) Federal Energy Regulatory Commission;

(D) Nuclear Regulatory Commission;

(E) the relevant regulatory functions of the Department of the Interior;

(F) Federal Housing Administration, Department of Housing and Urban Development; and

(G) Occupational Safety and Health Administration, Department of Labor.

(2) Regulation of transportation and communications by the Federal Government, by the last day of April 1983, for the following agencies:

(A) Civil Aeronautics Board;

(B) Interstate Commerce Commission;

(C) Federal Maritime Commission;

(D) Department of Transportation; and

(E) Federal Communications Commission.

(3) Regulation of banking and finance, international trade, and Government procurement by the Federal Government, by the last day of April 1985, for the following agencies:

(A) Office of the Comptroller of the Currency, Department of Treasury;

(B) Federal Deposit Insurance Corporation;

(C) Federal Home Loan Bank Board;

(D) Board of Governors of the Federal Reserve System;

(E) National Credit Union Administration;

(F) Federal Savings and Loan Insurance Corporation;

(G) International Trade Commission;

(H) Commodity Futures Trading Commission;

(I) Securities and Exchange Commission;

(J) Farm Credit Administration; and

(K) General Services Administration.

(4) Regulation of food, consumer health and safety, economic trade practices, and labor-management concerns by the Federal Government, by the last day of April 1987, for the following agencies:

(A) Consumer Product Safety Commission;

(B) Federal Aviation Administration, Department of Transportation;

(C) Federal Trade Commission;

(D) Food and Drug Administration, Department of Health, Education, and Welfare;

(E) the relevant regulatory functions of the Department of Agriculture;

(F) National Highway Traffic Safety Administration, Department of Transportation;

(G) National Labor Relations Board;

(H) Federal Mediation Board; and

(I) Equal Employment Opportunity Commission.

(b) Each plan submitted under subsection (a) shall include provisions relating to such other agencies as the President elects to include, or the Speaker of the House of Representatives and the President pro tempore of the Senate may require. Notice of any additional agency to be included in such plan shall be sent to the President not later than the last day of September of the year immediately preceding the year in which such plan is required to be submitted.

(c) A plan submitted by the President pursuant to subsection (a) shall contain the following information with respect to agencies which are included in any such plan pursuant to paragraph (1) through (5) of subsection (a)—

(1) recommendations for the transfer, consolidation, modification, or elimination of functions;

(2) recommendations for organizational, structural, and procedural reforms;

(3) recommendations for the merger, modification, establishment, or abolition of Federal regulations or agencies;

(4) recommendations for eliminating or phasing out outdated, overlapping, or conflicting regulatory jurisdictions or requirements of general applicability;

(5) recommendations for eliminating agency delays; and

(6) recommendations for increasing economic competition.

(d) Along with each plan submitted by the President pursuant to subsection (a), the President shall report on the cumulative impact of all Government regulatory activity reviewed, up to that date, on specific industry groupings. The report shall include recommendations to insure that the cumulative impact of Government regulation is in the Nation's best interests. Wherever practicable, in the formulation of each plan, the President shall give explicit consideration to the particular impact of Government regulatory activity on the following relevant industry groupings.

(1) transportation and agriculture industries;

(2) mining, heavy manufacturing, and public utilities industries;

(3) construction and light manufacturing industries; and

(4) communications, finance, insurance, real estate, trade, and service industries.

(e) If by the first day of May in each of the years 1981, 1983, 1985 and 1987 the President—

(1) has failed to submit the appropriate plan as required by paragraphs (1) through (5) of subsection (a); or

(2) has submitted a plan which fails to provide such information as is required by subsection (c) of this section, the committees of Congress having primary legislative jurisdiction or oversight responsibilities with respect to any such areas, together with the Committee on Government Operations of the House or the Committee on Governmental Affairs of the Senate, shall prepare such plan(s) which shall become the pending business in the House of Representatives and the Senate not later than the first day of May of the following year. Such plan(s) shall be jointly reported if agreement between and among such committees can be made with respect to such plan(s) but otherwise shall be separately reported.

LEGISLATIVE AGENCY REVIEW

SEC. 5. The Comptroller General of the United States and the Director of the Congressional Budget Office shall submit, contemporaneously with the submission of the plans required under section 4, a report assessing each of the agencies included in the plan submitted by the President with respect to the following:

(1) the purposes for which each agency was established;

(2) any significant changes which have occurred in the areas regulated by each such agency, the impact of such changes on the effectiveness of such department or agency, and the continued appropriateness of its original purposes;

(3) the net impact of the agency and the degree to which it has accomplished its purposes;

(4) the cost-effectiveness and efficiency of the operations of each such department or agency; and

(5) practical and more efficient alternative approaches to achieving presently demonstrated regulatory needs.

CONGRESSIONAL REVIEW

SEC. 6. (a) The President shall submit each plan required under section 4 to the Congress and separately transmit such plan to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(b) Each plan submitted under subsection (a) shall be referred jointly—

(1) to the Committee on Government Operations of the House of Representatives and the appropriate committee or committees of the House of Representatives having primary legislative jurisdiction or oversight responsibilities with respect to the subject matter of such plan; and

(2) to the Committee on Government Operations of the Senate and the appropriate committee or committees of the Senate having primary legislative jurisdiction or oversight responsibilities with respect to the subject matter of such plan.

(c) The committees to which a plan is referred under this section shall review such plan and report a bill approving or disapproving such plan in whole or in part, with such amendments as are deemed appropriate. Such reports shall be joint reports if agreement between or among such committees can be made with respect to any such plan(s), but otherwise shall be separate reports. The reported bill shall become the pending business in the House of Representatives and the Senate not later than the first day of May of the following year.

(d) If no comprehensive regulatory reform legislation in a designated area as described in section 4(a) and which conforms to criteria set forth in section 4(c) is enacted by August 1 of the year following the year in which a comprehensive plan has been submitted by the President then all departments and agencies affected thereby shall have no authority to issue or promulgate any new rules or regulations except those essential for preserving public health and safety. A concurrent resolution of either House of Congress stating in substance that such rule or regulation is not essential for such preservation would render such regulation null and void.

(e) If no comprehensive regulatory reform legislation in a designated area as described in section 4(a) and which conforms to criteria set forth in section 4(c) is enacted by October 1 of the year following the year in which a comprehensive plan has been submitted by the President, then all departments and agencies affected thereby shall have no authority to enforce any rule or regulation except those essential for preserving public health and safety. A concurrent resolution of either House of Congress stating in substance that such rule or regulation is not essential for such preservation, would render such regulation null and void.

(f) Within nine months after the date of enactment of this Act, the President shall, upon comprehensive review of the anticipated application and effect of this section, transmit to the Congress a detailed listing of the agency rules of general and specific applicability the enforcement of which would be suspended by the application of subsection (e).

TERMINATION OF AGENCIES

SEC. 7. (a) In the event that no comprehensive regulatory reform legislation has been enacted with respect to a designated area described in section 4(a), every agency described in each plan submitted under this Act shall be terminated after the last day of December in the calendar year next following the calendar year in which such plan is required to be submitted, unless other appropriate provision is enacted by the Congress providing for the continuation of such agency.

(b) Under the circumstances described in

subsection (a), all rules or regulations of the affected agencies essential for preserving public health and safety shall remain intact and shall continue to be enforced by a designated office created for that purpose within the Department of Justice, which has funding and staff sufficient to insure effective enforcement, until such time as other appropriate provision is enacted by the Congress.

CONTINUING REVIEW

SEC. 8. The agency reorganization plans submitted pursuant to section 4 shall be submitted in the same order and for the same or succeeding departments or agencies ten years after the date of submission of the last original plan and on every succeeding tenth anniversary of the submission of the last of each such plan in each eight-year cycle, unless otherwise provided by law.

SUPPORT FOR THE REGULATORY REFORM ACT OF 1979

The legislation has gained the endorsement of the U.S. Chamber of Commerce, National Association of Manufacturers, Business Roundtable, American Bar Association, American Medical Association, National Grange, Common Cause, Prudential Insurance Company of America, Kaiser Aluminum, Coca-Cola, DuPont, Monsanto, Pepsico, The Continental Group, Inc., and Southern Pacific Company. The legislation also has been endorsed by academicians from the University of Chicago Graduate School of Business, Harvard University, Harvard Law School, UCLA Graduate School of Management, University of Rochester Graduate School of Management, Trinity College and California State Polytechnic University, Pomona.

PRINCIPAL PROVISIONS OF THE REGULATORY REFORM ACT OF 1979

Government regulation has all too often become a burden to consumers, workers, American business and to the economy as a whole. Indiscriminate regulation has fueled inflation, stifled competition, and produced mountains of paperwork and red tape. Agency functions tend to overlap. Individual regulations are frequently made without due consideration of the relative costs and benefits involved. Any case-by-case handling of matters, in the absence of broad guidelines, produces unreasonable delays and fragmented and incoherent policy, often focusing on trivia while neglecting priorities. Clearly, some regulatory agencies have poorly served the public interest in disregard of Congressional mandates.

To counter this, the Regulatory Reform Act of 1979 sets forth a discipline for action, to apply both to Congress and the President. Over a period of eight years, from 1981 through 1988, the President would submit to the Congress by April 30 of each year, comprehensive plans for reforming regulation in four specific areas of the economy, namely:

97th Congress (1981–82), energy the environment, housing, occupational health and safety.

98th Congress (1983–84), transportation and communications.

99th Congress (1985–86), banking and finance, international trade, and government procurement.

100th Congress (1987–88), food, consumer health and safety, economic trade practices and labor-management relations.

Each plan would include recommendations for increasing competition, and for procedural, functional, administrative and structural reforms. The plans would be referred to the relevant oversight committees of the Senate and the House and to the Senate Governmental Affairs Committee and the House Government Operations Committee.

To ensure that the impact of regulatory activity is in the Nation's best interest, the President will include in his plan a report on the cumulative impact of Federal regulation on the following industry groupings:

transportation and agriculture industries;

mining, heavy manufacturing, and public utilities;

construction and light manufacturing industries;

communication, finance, insurance, real estate, trade and service industries.

To provide a wider perspective on these problems, the General Accounting Office and the Congressional Office of the Budget will simultaneously submit comprehensive reports to Congress concerning:

The purposes for which each agency was established;

Significant changes which have occurred in regulated areas; the impact of such changes on the agency's effectiveness; and the continued appropriateness of original statutory purposes;

The net impact of the agency and the degree to which it has achieved its purposes;

The cost-efficiency of the operations of each agency; and

Practical, more efficient, alternative approaches to achieving those regulatory needs which currently must be served.

If the President does not submit a plan by May 1 of the first year, the relevant Congressional committees would write and report their own plan(s) in the form of a bill, to become the pending business of both Houses not later than May 1 of the second year.

Should Congress fail to approve comprehensive regulatory reform legislation in the designated area by August 1 of the second year, the affected agencies will lose their authority to make *new* rules (except those essential for preserving public health and safety).

Should Congress fail to pass comprehensive reform legislation by October 1 of the second year, enforcement of *existing* rules of the affected agencies will be suspended (except those essential for preserving public health and safety).

Should Congress fail to enact comprehensive reform legislation by December 31 of the second year, a "sunset" provision comes into play, terminating each affected agency for which Congress has not enacted reform. Responsibility for enforcing health and safety rules would pass to the Justice Department.

After an eight-year respite following the origina' review period (1981–88), Congress would begin the reform process again (in 1997), and continue such cycle thereafter, examining agencies in the same order unless the order is changed by law.

This timetable would not delay reform efforts already underway, or which may arise in the interim, until the designated year for that particular facet of regulation. Thus, it does not mean that transportation reform must wait until 1983, or consumer safety reform until 1987. Rather, it ensures that if no comprehensive reform has been accomplished by these dates, then the discipline imposed by the bill would come into play. If Congress wants to act sooner, all the better.

By Mr. RANDOLPH:

S.J. Res. 39. A joint resolution to provide for the designation of the second full calendar week in March of each year as "National Employ the Older Worker Week"; to the Committee on the Judiciary.

NATIONAL EMPLOY THE OLDER WORKER WEEK

● Mr. RANDOLPH. Mr. President, today I am introducing a joint resolution to designate the second full week in March of each year as "National Employ the Older Worker Week."

The resolution should be helpful as an educational tool in informing the public of the many advantages of hiring middle-aged and older persons. Additionally, such a campaign can make our Nation aware of the various attributes and meaningful capabilities of citizens 40 and above. They are now having extreme difficulty in obtaining employment because of the age barrier in spite of their vast reservoir of expertise, experience and knowledge.

For the past two decades, the American Legion, through its economic commission and employment committee, has designated a specific week during each year to make the public aware of the advantages of hiring the older worker, especially older veterans. At the beginning the Legion selected the first full week in May as "Employ the Older Worker Week." In 1973, the American Legion changed the observance of this week to the second full week in March. The principal reason for this change was to avoid any possible interference with youth employment promotional programs which are conducted during the month of May.

I join here in representing a State with one of the highest percentages of older citizens, and I have spent much of my career working with the problems of older Americans. My membership on the Labor and Human Resources Committee and the Subcommittee on Aging calls for me to devote much time in the Senate as we work to improve the working and living conditions of our older citizens.

Mr. President, at this point I ask to have printed in the RECORD the American Legion Resolution No. 533, adopted during the 60th Annual National Convention, August 22–24, 1978, New Orleans, La.

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

SIXTIETH ANNUAL NATIONAL CONVENTION OF THE AMERICAN LEGION, AUGUST 22–24, 1978, NEW ORLEANS, LA.

Resolution No. 533.

Committee: Economic.

Subject: Designate the second full week in March as "National Employ the Older Worker Week."

Whereas, The American Legion for a number of years has concerned itself with the difficulty encountered by the older worker, who in many cases is forty-five years or younger, inasmuch as many of this group are veterans; and

Whereas, The practice of discrimination in employment because of age for otherwise qualified persons is not only illegal, but is contrary to the American principles of liberty and equality of opportunity for all citizens; and

Whereas, The American Legion since 1959 has promoted annually a successful program to focus public attention on the advantages of employing older people, especially veterans, under which the second full week in March is designated as "Employ the Older Worker Week," and citations are presented annually to employers who do not discriminate against older workers; and

Whereas, Department participation and interest of the Legion, employers, and the public in the program has increased each

year for the past two decades and it has been recognized throughout the Nation and by the United States Congress as a meaningful and significant program to combat age discrimination in employment; now therefore be it

Resolved, By The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that The American Legion petition the Congress of the United States to adopt a Joint Resolution requesting the President of the United States to issue a Proclamation (1) designating the second full week in March of each year as "National Employ the Older Worker Week;" and (2) calling upon employer and employee organizations, other organizations concerned with employment, and the citizens of the United States in general to observe such a week with appropriate ceremonies, activities, and programs designed to bring about the elimination of discrimination in employment because of age.●

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. HELMS, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 3, a bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution.

S. 25

At the request of Mr. BAYH, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 25, to designate the birthday of Dr. Martin Luther King, Jr., as a national holiday.

S. 55

At the request of Mr. BENTSEN, the Senator from Texas (Mr. TOWER), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 55, the Meat Import Act of 1979.

S. 265

At the request of Mr. DOMENICI, the Senator from Texas (Mr. TOWER), the Senator from North Carolina (Mr. HELMS), the Senator from Indiana (Mr. LUGAR), the Senator from Arizona (Mr. GOLDWATER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Wyoming (Mr. WALLOP), the Senator from Montana (Mr. MELCHER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from South Carolina (Mr. THURMOND), the Senator from New Mexico (Mr. SCHMITT), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 265, the Equal Access to Justice Act.

S. 333

At the request of Mr. RIBICOFF, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 333, the Omnibus Antiterrorism Act of 1979.

S. 390

At the request of Mr. METZENBAUM, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 390, the Antitrust Procedural Improvements Act of 1979.

S. 414

At the request of Mr. BAYH, the Senator from New York (Mr. MOYNIHAN), and the Senator from Hawaii (Mr. INOUYE), were added as cosponsors of S. 414, the University and Small Business Patent Procedures Act.

S. 423

At the request of Mr. KENNEDY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor to S. 423, the Dispute Resolution Act of 1979.

SENATE JOINT RESOLUTION 4

At the request of Mr. LUGAR, the Senator from Tennessee (Mr. BAKER), the Senator from New Mexico (Mr. SCHMITT), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Joint Resolution 4, proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues.

SENATE RESOLUTION 50

At the request of Mr. KENNEDY, the Senator from Texas (Mr. BENTSEN) and the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of Senate Resolution 50, a resolution disapproving the proposed deferral of budget authority to promote and develop fishery products and research pertaining to American fisheries.

SENATE RESOLUTION 74—SUBMISSION OF A RESCLUTION CONCERNING TERRORISM IN RHODESIA

Mr. HARRY F. BYRD, JR., submitted the following resolution, which was referred to the Committee on Foreign Relations:

SENATE RESOLUTION 74

Resolved, that the Senate condemns and deplores the senseless murder of fifty-nine civilian air-passengers killed by terrorists near Kariba, Rhodesia, on February 12, 1979, and expresses its sincere regret and sorrow to the families of each victim.

SEC. 2. The Secretary of the Senate is directed to deliver this resolution to the President within twelve hours of its adoption and to request on behalf of the Senate that a copy thereof be transmitted by the President to the Government of Rhodesia in Salisbury.

SENATE RESOLUTION 75—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. CHURCH, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 75

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1979, through February 29, 1980, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,371,700 of which amount not to exceed $105,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 76—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. BAYH, from the Select Committee on Intelligence, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 76

Resolved, That the Select Committee on Intelligence, in carrying out the duties and functions prescribed by Senate Resolution 400, Ninety-fourth Congress, agreed to May 19, 1976, as amended, is authorized from March 1, 1979, through February 29, 1980, to make expenditures from the contingent fund of the Senate not to exceed $1,890,000, of which amount not to exceed $12,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Reorganization Act of 1946, as amended).

SEC. 2. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1980.

SEC. 3. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

AMENDMENTS SUBMITTED FOR PRINTING

AMENDING RULE XXII OF THE STANDING RULES OF THE SENATE—SENATE RESOLUTION 61

AMENDMENT NO. 60

(Ordered to be printed.)

Mr. STEVENS (for himself and Mr. HATFIELD) proposed an amendment to Senate Resolution 61, a resolution amending rule XXII of the Standing Rules of the Senate.

AMENDMENT NO. 61

(Ordered to be printed.)

Mr. HELMS proposed an amendment to Senate Resolution 61, supra.

AMENDMENTS NOS. 62 THROUGH 65

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted four amendments intended to be proposed by him to Senate Resolution 61, supra.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs is about to begin hearings on issues related to Federal Reserve membership and the ability of the Federal Reserve to effectively implement monetary policy. These issues are important to the well-being of the Nation because the Federal Reserve is the Nation's central bank and must be in a strong position to effectively implement monetary policy if we are going to eliminate our persistent and dangerous inflationary problem. Monetary policy along with fiscal policy are the most important economic tools that we have to reduce inflation. The problem is that because of the current structure of the Federal Reserve not all depository institutions fall under the Fed's direct control of the reserves held against deposits. Since 1970 the percentage of total bank deposits covered by Federal Reserve requirements has declined from 80 percent to about 70 percent as banks have given up their membership in the Federal Reserve System. Unfortunately, the trend has accelerated in the past several years and more and more banks are leaving the Fed.

The committee is very aware of the concerns of both the Federal Reserve and the administration with regard to the attrition of membership and the adverse impact it could have on monetary control and our efforts to curb inflation, sustain economic growth and maintain the value of the dollar. The committee has expressed similar concerns and has made a commitment to give high priority to finding a permanent solution to this problem. Hearings were held last fall on this subject and we are about to give our full attention to it again.

On Monday, February 26, 1979, Chairman G. William Miller of the Board of Governors of the Federal Reserve System will appear before the committee to present their views on the issues and to comment on pending legislative proposals. The hearing will be held in room 5302 of the Dirksen Senate Office Building and will begin at 10 a.m.

The committee will continue its hearings later in March and will hear at that time from the Treasury Department, the financial regulatory agencies, representatives of the banking and financial industry, and others.

Additional information about the committee's hearings can be obtained by contacting Steven M. Roberts, chief economist for the committee, at 224–7391.

SUBCOMMITTEE ON ANTITRUST AND MONOPOLY

● Mr. METZENBAUM. Mr. President, the Senate Judiciary Subcommittee on Antitrust and Monopoly will hold 2 days of hearings on S. 390, the Antitrust Procedural Improvements Act of 1979. The first hearing was held on February 19, 1979. On February 26, 1979, the second hearing will take place in room 2228 of the Dirksen Senate Office Building. The hearing will begin at 9 a.m.●

SUBCOMMITTEE ON INTERNATIONAL FINANCE

● Mr. STEVENSON. Mr. President, the International Finance Subcommittee of the Committee on Banking, Housing and Urban Affairs, which I chair, will hold hearings on April 4 and 5 on the implications of the proposed multilateral trade agreements (the Tokyo Round) for U.S. exports. The hearings will begin each day at 10 a.m. in room 5302 of the Dirksen Senate Office Building.

The International Finance Subcommittee held extensive hearings last year as part of its study of U.S. export policy and economic competitiveness, and will release shortly a report containing findings and recommendations based on the study. The subcommittee has jurisdiction over export promotion, export controls, and export financing as well as exchange rates and the international monetary system generally.

The subcommittee intends to review the proposed tariff reductions and nontariff codes in order to determine what effect implementation of the draft agreements would have on U.S. exports and export policy. Particular attention will be paid to the draft code on export subsidies and countervailing duties, and to legislation to strengthen U.S. export performance to take advantage of trade possibilities opened by the agreements.

Persons wishing to submit testimony to the subcommittee or desiring additional information on the hearings should contact Robert W. Russell, counsel to the International Finance Subcommittee, at 224–0819.●

SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

● Mr. RIEGLE. Mr. President, on behalf of the Subcommittee on Alcoholism and Drug Abuse, I wish to announce hearings on renewal authorization legislation for the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA) on the following dates:

On February 22, 1979, in 1224 Dirksen Senate Office Building and February 26, 1979, in 4232 Dirksen Senate Office Building from 9 a.m. to 12 noon, the subcommittee will hear testimony on the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979, which I am introducing today.

On March 2, 1979, in 4232 Dirksen Senate Office Building, the subcommittee will hear testimony regarding the Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979.

This hearing will also be from 9 a.m. to 12 noon.

The subcommittee would be pleased to accept written statements from individuals or organizations who wish to comment on this legislation for the record. Typewritten statements should be submitted no later than 15 days following the hearings to the Subcommittee on Alcoholism and Drug Abuse, 119 D Street, NW., Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON RULES AND ADMINISTRATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today, February 21, and on Thursday, February 22, to consider the committee funding resolution.

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

ADDITIONAL STATEMENTS

THE GREAT IMBALANCING ACT

● Mr. GOLDWATER. Mr. President, throughout our history, the root foundation of our success in the field of foreign relations has been a proper balance between American commitments and American power. Today, we are seeing an alteration of this concept and the imbalance is placing this Nation in a position of peril. One of the finest expositions of this problem was published recently in Air Force magazine. That editorial, written by Editor John L. Frisbee, states that the course of U.S. foreign/defense policy is on a declining road due to the administration's misreading of Soviet goals or to plain self-deception.

I ask that this editorial entitled "The Great Imbalancing Act" be printed in the RECORD.

The editorial follows:

THE GREAT IMBALANCING ACT

(By John L. Frisbee, editor)

Thirty-five years ago, Walter Lippmann wrote that "in foreign relations . . . a policy has been formed only when commitments and power have been brought into balance." Those words, as true today as they were then, provide a basis for assessing where US foreign/defense policy stands and where it is going.

US commitments are less broad than they were a few years ago, but still extensive. They must be assayed on at least three levels. The first is the constant commitment to deter attack on the US itself by the only nation capable of launching such an attack—the USSR. The second relates to those areas where US and Soviet interests may clash, but where the US can expect little or no assistance from its stronger allies. The Middle East and Africa are two such areas.

The third level involves alliances headed by the US, conceived to protect allies from direct aggression and US interests from the effects of aggression. NATO is the prime example, followed by our bilateral treaties in the Pacific.

Putting the first level aside, the US commitment at the other levels is to maintain the status quo so far as domination by another power is concerned, but to a lesser—and lessening—degree relative to internal change. Advancement of human rights, while a worthy and still frequently articulated goal, has given a great deal of ground to the exigencies of economic and political life.

At all three levels, US power is falling behind commitments that we can ill afford to further reduce.

In contrast, the Soviet Union's commitment is to expansion of its direct control or hegemony on a global scale. Whether the impetus behind that commitment is ideological or nationalistic is important only to the extent that ideology helps or hinders expansion.

For the past decade, the US has attempted to balance commitments and power at a relatively low level of defense spending by seeking to persuade the USSR to reduce its base of power—its armed forces. Soviet policy, on the other hand, has sought with considerable success to balance commitments and military power by expanding the latter at the maximum rate allowed by Soviet resources. The two policies are diametrically opposed, with little if any middle ground on which to construct any sort of compromise

In the long term it may make little difference whether the Kremlin in fact agrees to a nuclear, intercontinental compromise at strategic parity (an unlikely prospect) so long as the Russians remain willing to continue their much greater investment in conventional forces, and so long as the USSR is seen by the non-Communist world as historically, hence currently, willing to spend lives at an exorbitant rate in order to reach its objectives.

The roots of the imbalance between US commitments and power do not lie in the Carter Administration. But the imbalance, which the previous Administration recognized and had set out to correct, has been exacerbated by three hallmarks of the Carter regime: consistent inconsistency, delay, and the frequent espousal of mutually exclusive goals.

A prime example of inconsistency is the President's pledge to the other NATO, heads of state that the US will increase defense spending by three percent in real terms if their countries will equal that growth. It now seems almost certain that this commitment will be hedged, on the pragmatic grounds that the US economy has suffered serious setbacks. This calls to mind Peter Viereck's comment that "pragmatism is unpragmatic; it won't work." It also brings to mind the fact that Soviet defense spending has grown by at least four percent a year for the past decade.

The foremost example of delay is the Administration's repeated postponement of a decision on production of the MX intercontinental ballistic missile. And from a gallery of mutually exclusive goals—both foreign and domestic—one could pick Mr. Carter's avowed aim of regenerating public confidence in the openness and integrity of US foreign policy formulation while concealing such adverse events as the stationing of MIG–23s in Cuba and Soviet encoding of their ICBM test transmissions in violation of SALT I understandings.

There is a subtle danger in the Carter Administration's handling of foreign relations: namely that the gap between commitments and power—in the final analysis, military power—will widen at a rate too slow to create public alarm until the US has reached a point where recovery may be impossible.

In our view, the course of US foreign/defense policy is on a declining road due to the Administration's misreading of Soviet goals, or to plain self-deception. The ultimate destination of that road is disaster. And the only way to avoid disaster is to take an uphill path that will close the gap between commitments and the military power needed to back them.●

OPEN DOORS: EMPTY HANDS

● Mr. STEVENSON. Mr. President, now that Teng has returned to China we should ask what we learned from his visit. Meg Greenfield sums it up in a recent column in the Washington Post: Teng provided none of the assurances the United States sought, but gave free advice no one needed on dealing with the Russians.

Teng's interest in buying U.S. goods and technology accompanies an apparent desire to exacerbate United States-Soviet Union tensions. It took the United States 30 years to recognize the People's Republic of China. I hope it will not take another 30 years to understand the China we now recognize.

Mr. President. I ask that Meg Greenfield's article be printed in the RECORD.

The article follows:

TENG'S VISIT: TOO MANY POLAR BEARS

(By Meg Greenfield)

By about Wednesday of China week it occurred to me that perhaps the nation had finally had one spectacular too many. Sitting there in an East Room illuminated by that now familiar blend of glaring TV lights and sparkling chandeliers, we watched Carter and Teng transmute ordinary pens into instant collectors' items by the mere act of signing agreements; there was Marine Band music; there was the constant stream of reminders that we were in the presence of something exotic, momentous, historic. There was all this—and yet there was also a sense, as there had been all week long, that something was "off" about the proceedings, not quite plausible, not quite right. It undermined the gush and gaiety of the ceremonies as well as the solemnity of the official pronouncements. What was it? What was wrong?

At the simplest level it may just have been a matter of anticlimax. Earlier excitements had made this one seem mild. For the fact is that like it or not, the truly breathtaking moment in the restoration of Sino-American relations was that famous televised landing of Richard Nixon's plane in Peking seven years ago. Teng in Washington, as theater goes, was not Nixon in Peking or Sadat in Jerusalem or even, for that matter Khrushchev in the U.S.A. And so far as wildly improbable, not to say surrealistic, Washington scenes go, there was virtually nothing Teng could have done—short of singing a duet with Brezhnev on the Kennedy Center stage—that would have touched the Begin-Sadat extravaganza of a few months back.

So chalk up part of the "offness"—the disappointment—to pre-visit hype of the event itself and to the inevitable jadedness of the audience to which the show was playing. But there was more, beginning, surely, with the way Deputy Prime Minister Teng seemed to have programmed his own computer: I thought of one of those missiles that can't be recalled or redirected once fired, but which must simply follow its preplanned trajectory. No matter what his interlocutors began with, they invariably seemed to end up with hegemony and more polar bears. He was really very impolitic, pushing his line and plying his wares in ways that verged on an affront to hospitality.

But, at least in public, he wasn't answered back; the whole thing just went forward on the American side as a kind of political love-in. Teng was no Nikita Krushchev, to be sure, hollering and threatening with stagy peasant roughness. But he did seem publicly to control events and to be beyond the reach of dialogue. And since none of this was publicly acknowledged by the American side, I think the effect was finally to make those of us who were mere spectators uneasy, suspicious that this show of rollicking amity was forced and that there were some fairly ugly realities lurking just underneath.

A Republican senator who was among those who met with Teng marveled to me about how unbending and unyielding the Chinese leader had been on the main questions. It was all very genteel, he said, but it all came down to the same thing: no. No to requests that he give some assurances against moving military on Taiwan; no to requests that he consider ending atmospheric nuclear tests; no to requests that he agree not to start something with the Vietnamese. And beyond all that there was the general, all-purpose no to requests that he cool it with the let's-you-and-him-fight anti-Soviet rhetoric. Teng may have tamed and modified some of his language on this point, but not really so you would notice.

In an interesting way, therefore, his message, as delivered to Americans, was a strange amalgam of directives that don't quite work together: Teng, roughly speaking, would have the United States be very tough and agressive and unyielding with the Soviet Union on questions of their interventions in third countries—and just the opposite with the Chinese on similar questions. Leave us alone on Taiwan and Vietnam . . . get cracking against the Russians on Afghanistan and the Horn of Africa. It is a measure of the incoherence of our own domestic politics at the moment that this curious message did not seem so much to offend or even bemuse our politicians as to attract them. Each seemed eager to pick up some single element of the Teng position—whichever appealed—and to use it to his advantage, while ignoring the rest.

And that brings us to what was certainly a main source and symptom of the oddity of the visit, especially in its five-day Washington phase. I am referring to the fact that within the American political and business worlds everyone seemed to be exploiting some single aspect of the Chinese visit for his own end—to prove a point, or further a policy or make a buck. It was a kind of festival of main-chancing.

Since the Chinese were so clearly out to "use" us, I can see no particular reason why Americans should not have responded in kind. And God knows I am beyond being surprised by the sight of that implacably anti-communist business community of ours rushing to make a deal with those equally avid anti-capitalists in Peking. That is the way it always turns out, and it is probably both good for our side and good for international stability. But I think there *was* something unseemingly and disquieting in the way some politicians and administration figures mirrored the businessman's single-minded pursuit of given particular goodies, affecting an oblivious indifference to questions that can stir them to great speechifying and anguished concern—elsewhere.

Such as, for example, good old human rights. The anti-Russian, anti-SALT right in Washington makes a very tony, high-minded big deal of these questions where Russian trespasses are concerned. But in their eagerness to exploit the Chinese anti-Sovietism, they seem to care little for the victims of Chinese internal repression or for the victims of Teng's loathsome client, the Cambodian butcher Pol Pot, or for the Taiwanese in whose behalf they seem willing to accept the flimsiest assurances that nothing bloody will probably happen.

That's what I mean by unseemly, and the effect was heightened for me by observing this part of the anti-Soviet anti-arms-control right being joined in the jovial, all-embracing celebrations by the good old liberal left, or parts of it, anyway. Which parts? For one, a lot of people who seem to think that they can only vindicate their (admirable) stand in favor of recognizing China long before it was even safe to do so, let alone fashionable, by professing the Chinese to be true and beautiful in all things. For another, those liberals who have never been particularly troubled by the high price of social and economic progress in totalitarian states.

I couldn't help wondering as the Teng show left Washington last week how much had actually been accomplished and learned from it and how much had got lost in the grabbing for narrow advantage and political self-justification. Maybe I am too hard on the spectacle. I only know it wasn't very edifying.●

ALLEN TATE, A GREAT AMERICAN

● Mr. BAKER. Mr. President, I would like to pay tribute to a great American man of letters, Allen Tate, who died February 9 at the age of 79 in Nashville, Tenn. Mr. Tate was a novelist, biog-

rapher, essayist, editor, teacher, and critic in addition to writing poetry, but he achieved perhaps his greatest renown as a poet. As a member of a writers' group at Vanderbilt University in the 1920's known as the Fugitives and as editor of the Sewanee Review, he was closely associated with my State, but his fine mind and Southern sensibility were recognized far beyond its borders. I ask that obituaries published in the Washington Post and the New York Times be printed in the RECORD to mark the loss of this distinguished American.

The articles follow:

ALLEN TATE, POET, CRITIC AND TEACHER, IS DEAD AT 79

Allen Tate, a poet and critic and one of the more distinguished figures in contemporary American literature, died yesterday. He was 79 years old.

Biographer, novelist, editor, teacher and critic, Allen Tate will most probably be remembered as a poet—a poet, to use the words of Dudley Fitts, of "aristocratic integrity." His poetry—weighed, balanced, declamatory—reflected the formal and classic virtues he defended in his criticism.

He was also one of the foremost spokesmen for the Southern tradition, not only in literature, but in values and politics.

Mr. Tate's poetry was considered "difficult" by some. It was often filled with references to Latin and Greek classics, and his tone was more intellectual than lyric. But at its best, as in his most famous poem, "Ode to the Confederate Dead," he fused his intellectuality with the Southern sensibility into a powerful philosophic statement.

MUCH SEEMED CONTRADICTORY

On the surface, much in his life seemed to be contradictory. He was a Southerner who spent much of the prime of his life in the North, a Protestant who became a Catholic, a polemicist who mellowed into a philosopher. But beneath the surface there was unity. In a book about Mr. Tate's work, Ferman Bishop described the writer as "consistently Classical, Christian and Southern in his outlook."

That outlook was molded largely by his background. John Orley Allen Tate was born Nov. 19, 1899, at Winchester, Ky., in Clark County, the heart of bluegrass country.

While still an undergraduate at Vanderbilt University, he became a member of a group called the Fugitives, who guided and influenced the Southern literary renaissance that flowed in the next decades.

The Fugitives included such other soon-to-be-famous writes as John Crowe Ransom and Robert Penn Warren and put out a magazine, The Fugitive, in which Mr. Tate's first poems appeared. They showed the influence of T. S. Eliot, whose poetry and criticism were to be a major source of inspiration to Mr. Tate throughout his career.

FLING AS BUSINESSMAN

After graduating from Vanderbilt in 1922, Mr. Tate had one brief fling as a businessman before devoting himself to letters. "My brother gave me a job in his coal office," he later recalled. "In one day I lost the company $700 by shipping some coal to Duluth that should have gone to Cleveland, and my business career was over."

Soon afterward, he came to New York, where he began his editing career on the magazine Telling Tales. Later, he was to become Southern editor of Hound and Horn, an advisory editor of The Kenyon Review and, most importantly, editor of The Sewanee Review.

While living in Paris on a Guggenheim Fellowship in 1928 and 1929, Mr. Tate published his first book: "Mr. Pope and Other Poems." It was followed by two biographies that were the result of his abiding interest in the Southern heritage: "Stonewall Jackson—The Good Soldier," and "Jefferson Davis: His Rise and Fall."

His only novel, "The Fathers," also drew on the Confederacy for its inspiration. The story of aristocrats in Virginia at the time of the Civil War, it pleased some reviewers, but puzzled others who thought it lacked the vivacity of more popularly written Civil War novels. Later critics were more sympathetic; Arthur Mizener, writing in 1947, called it "one of the most remarkable novels of our time."

A SENSE OF THE PAST

His sense of the past, of the antebellum South, led him to ally himself with the Agrarians, a group of Southerners who severely criticized the excesses of modern industrial life. In a book of essays, "I'll Take My Stand: The South and the Agrarian Tradition" and "Who Owns America?" Mr. Tate argued that by opting for industrialism, American society had invested in science and machines, an option he felt led to the decay of intellectual thought.

In his essays, he leaned increasingly to a consideration of such as Dante, Donne, Emily Dickinson and Eliot, as opposed to the poets of the Romantic school. He refused to go along with those critics who insisted that literature had to be viewed within its historic and social context. In "Tension in Poetry," one of his most ambitious works, he developed the theory that tension, the essential element in poetry, derived from the balance between connotative and denotative qualities of language.

Some of his most sensitive criticism was written about the poetry of his friend Hart Crane. "Out of the desperate conditions of his private life," Mr. Tate wrote, Crane created "the great poetic achievement of his generation".

In his own poetry, Mr. Tate continued to employ man's relationship to his past as a major theme. "Ode to the Confederate Dead," "The Mediterranean" and others considered to be his best works all focused on the past. One of his most unusual essays was "Narcissus as Narcissus," in which he examined his own "Ode to the Confederate Dead."

Mr. Tate's literary reputation, like that of the New Criticism, was at its highest in the 1940's and 50's. After that, it declined somewhat, with one reviewer, Helen Vendler, declaring in 1969 that "while Tate was trying * * * to counter what he considered a cult of rationalistic positivism, he became the high-priest of an arcane sect, an anticult."

SOUGHT RELEASE OF POUND

In the 1950's two of his actions drew public attention. Born a Protestant, he converted to Roman Catholicism in 1950, and his first book of essays published after the conversion, "The Forlorn Demon" (1953), was infused with Catholic and Thomist doctrine.

He was also among the literary figures who campaigned for the release of Ezra Pound, who had been committed to a mental institution after broadcasting for the Axis in World War II. The aging Pound was eventually freed.

Throughout his writing career, Mr. Tate worked as a teacher, lecturer and radio commentator. He taught at Southwestern College in Memphis, the University of North Carolina Women's College, New York University, the University of Rome and the University of Chicago.

From 1939 to 1942 he was poet in residence at Princeton, and he was a professor at the University of Minnesota from 1961 until his retirement in 1968.

A WITTY PUBLIC SPEAKER

Fair-haired and blue-eyed, with a high bulging forehead that gave him a scholarly appearance, he was a witty public speaker much sought after on the lecture circuit.

In the 1940's he became a regular member of the Sunday night radio show "Invitation to Learning." Each week he would discuss the classics with Mark Van Doren and Huntington Cairns; their discussions were later published in a book named after the program.

Mr. Tate received many literary honors, including the Bollingen Prize in poetry in 1956, the Brandeis University Medal Award for Poetry in 1961 and a $5,000 award from the Academy of American Poets in 1963. He served as president of the National Institute of Arts and Letters in 1968. His 75th birthday, in November 1974, was celebrated at a memorable occasion attended by literary persons from all over the United States and the Britsh Isles.

He was married three times. His first wife was Caroline Gordon, the novelist, whom he married in 1924. She was the mother of his only daughter, Nancy Meriwether (Mrs. Percy H. Woods Jr.). His second wife was Isabella Stewart Gardner, whom he married in 1959. Both marriages ended in divorce.

SON KILLED IN ACCIDENT

In 1966, Mr. Tate married Helen Heiny. Twin sons were born to the couple in 1967, but one of them died in an accident in infancy.

The poet Robert Lowell, a friend, described the accident in graphic detail in a poem, "For Michael Tate":

gagging on your plastic telephone,
while the one night sitter drew water for your bath,
unable to hear your groans . . .

In a companion poem, "Letter From Allen Tate," Mr. Lowell quoted some of Mr. Tate's reactions: "As you must guess, We're too jittery to travel after Michael's death."

The poem concluded, however, on a note of admiration:

How sweet your life in retirement! What better than loving
a young wife and boy; without curses writing,
"I shall not live long enough to 'see him through'"

Mr. Tate reportedly was so upset by the poems that he broke with Mr. Lowell over them. Mrs. Tate bore him another son in 1969.

Among Mr. Tate's books of poetry were "Mr. Pope and Other Poems" (1928), "The Mediterranean and Other Poems" (1936), "The Winter Sea" (1944) and "Poems" (1960). His critical works included "Reactionary Essays on Poetry and Ideas" (1936), "Reason in Madness" (1941), "The Man of Letters in the Modern World" (1955), and "Essays of Four Decades" (1969). His "Collected Poems" was issued by Farrar Straus & Giroux in 1977.

ALLEN TATE, POET, CRITIC, DIES AT 79

(By Eve Zibart)

Allen Tate, 79, the southern literary renaissance's great man of letters, died early yesterday, 10 days after being admitted to Vanderbilt Hospital in Nashville, Tenn. He had been bedridden with emphysema for several years.

Although a dyed-in-the-wool southerner, Mr. Tate became the most cosmopolitan of American critics and was one of the first to espouse the modernism of T. S. Eliot and William Faulkner. He won numerous literary awards—five major prizes in the past two years—but popular success eluded him and he became, instead, the "poet's poet."

Allen John Orley Tate was born in Kentucky and spent most of his childhood and youth in Nashville and the District of Columbia area.

An alumnus of Georgetown Prep, Mr. Tate graduated magna cum laude from Van-

derbilt University in 1922. At Vanderbilt, he helped found a literary magazine called The Fugitive, through which he and his colleagues, including Robert Penn Warren, Cleanth Brooks, John Crowe Ransom and Merrill Moore, explored the intellectual and socioeconomic traditions of the South. This later grew into the "agrarian movement" that prefigured the southern renaissance.

"As a young man, as a college student, Allen single-handedly invented for himself what you would call the modern poetic style before he'd ever read Eliot or Crane," Warren recalled recently. "He was a brilliant mind . . . I was constantly amazed by him."

In his late 20s, Mr. Tate and his wife, novelist Caroline Gordon, moved to Greenwich Village in New York, and lived off his acerbic and witty freelance criticism. What was to become his best known poem, "Ode to the Confederate Dead," was first published in 1927.

The poet based the physical description of the "Ode" on the Confederate cemetery in Richmond, which he saw as a child:

Row after row with strict impunity
The headstones yield their names to the element,
The wind whirrs without recollection;
In the riven troughs the splayed leaves
Pile up, of nature the casual sacrament
To the seasonal eternity of death;
Then driven by the fierce scrutiny
Of heaven to their election in the vast breath,
They sough the rumour of mortality.
Autumn is desolation in the plot
Of a thousand acres where these memories grow
From the inexhaustible bodies that are not
Dead, but feed the grass row after rich row.
Think of the autumns that have come and gone!

In 1928 he and Gordon simultaneously were awarded Guggenheim fellowships.

Subletting Ford Maddox Ford's Paris apartment, Mr. Tate and his wife entered the expatriate circle presided over by Gertrude Stein. He thought F. Scott Fitzgerald the most attractive of the group, but spent more time with Ernest Hemingway. "We were pretty friendly," he recalled in a recent interview, "but I think if I'd been writing prose, he wouldn't have had me around."

Returning to the United States in 1930, Mr. Tate embarked upon the writers' standard academic circuit, teaching, lecturing and publishing. By 1939 he had become head of the creative writing program at Princeton University.

He was a legend among young, aspiring writers. Then Princeton student William Meredith, who now holds the poetry chair at the Library of Congress, remembers the "authority of his criticism." The young Robert Lowell, in a fit of hero worship, pitched a pup tent in Mr. Tate's yard for several weeks, relishing the propinquity.

In 1942, Mr. Tate was named to the chair of poetry at the Library of Congress. His Victorian house across the Anacostia River turned into a literary menage. Novelist Brainard Cheney and his wife, Frances, former president of the American Library Association, shared the rent, Katherine Anne Porter lived in the basement, Meredith slept on the porch, and John Peale Bishop stayed in the guest room.

Mr. Tate was at the height of his reputation in the 1940s, transforming the Sewanee Review into one of the leading literary magazines in the country. He was considered the perfect dinner companion—witty, perhaps a little acidic, and immaculately dressed—addicted to classical music and charades, a chain-smoker and a passionate fan of ice cream. He had an unshakeable composure and a southern gallantry that women found extremely attractive.

Mr. Tate and his wife, who shared a "profound psychic and spiritual relationship," according to Cheney, were divorced, remarried and divorced.

In 1959, Mr. Tate married Boston socialite and author Isabella Stewart Gardner, but the marriage quickly disintegrated, and in 1966 he married a former student, Helen Heinz, who survives. They lived in Sewanee, Tenn., moving back to Nashville two years ago.

Mr. Tate had written relatively little in the past several years, being almost blind as well as bedridden. He worked intermittently on his memoirs. In 1977 his "Collected Poems: 1919–1976" was awarded the Lenore Marshall Prize by Saturday Review.

Mr. Tate is also survived by a daughter, Nancy Wood, of Mexico, and two sons, John Allen and Benjamin Bogen Tate, of Nashville.●

NATION HONORS THOMAS EDISON

● Mr. RIBICOFF. Mr. President, 100 years ago, in a laboratory in Menlo Park, N.J., Thomas Alva Edison developed the first economically practical incandescent lamp and electrical system to power it. Edison's engineering breakthrough was the start of the electric lighting industry. To commemorate this historic development, the beginning of a Centennial of Light, the Thomas Alva Edison Foundation of Southfield, Mich., is sponsoring educational programs throughout the Nation. Information about these programs may be obtained from the Centennial of Light Information Center, P.O. Box 1310, Greenwich, Conn. 06830. The toll free telephone number is 800–243–8561.

Edison is being honored at the National Inventors Hall of Fame at the U.S. Patent and Trademark Office in Arlington, Va. A permanent exhibit was opened to the public this past February 11. Edison was born February 11, 1847. Each February 11 is observed as National Inventors Day by the National Council of Patent Law Associations. This year's commemoration has taken on a special significance now as part of the Centennial of Light observance.

The Centennial of Light observance is to honor the memory of Thomas Edison, whose scientific and technological achievements changed the face of the Earth and human history. With the support of American businesses and industries, the centennial programs are striving to upgrade scientific education and develop an environment conducive to more research and development and a resulting economic growth.

Along with the development of the incandescent lamp and electric system, Edison also invented the phonograph in 1877 and the motion picture camera in 1891. Other inventions Thomas Edison is credited with are the electrical vote recorder (1868), the stock ticker (1869), telegraph improvements, paraffin paper, carbon telephone transmitter, microphone (1872–76), electric railway (1880), portland cement processes (1900–09), alkaline storage battery (1909–10), disc phonograph (1910–14), and the talking motion picture. In his lifetime, Edison received more patents than any other person—1,093. In 1882, his most prolific year, he was issued two patents a week.

Edison was also the first to use the team approach to solving scientific and technological problems. His "invention factory" in Menlo Park, N.J., was the first of its kind, a well-equipped and ably staffed laboratory dedicated solely to testing, improving and inventing useful products. This was the forerunner of the modern industrial research laboratory. In a very real sense, this may have been Edison's most important innovation since it established the method by which even today's industrial, academic, and governmental research teams engage in technical studies.

The Nation will always be in the debt of Thomas Edison, for his work and vision helped to make the United States achieve preeminence in technical competence. It is of particular importance today that we recognize the genius, discipline, and courage of an inventor and innovator like Edison because we very much need people of his caliber.

I wish to commend the people who compose the International Committee of the Centennial of Light. It is through efforts such as this one that we may rekindle an Edison-like enthusiasm for discovery of ways to improve the quality of life throughout the world. I am pleased to note that two companies based in Connecticut are represented on the International Committee, Reginald H. Jones, chairman and chief executive officer. General Electric Co., Fairfield, Conn., and Merle W. Kremer, president, GTE Sylvania, Inc., Stamford, Conn. Along with the participation of Mr. Jones and Mr. Kremer on a national scale, in Connecticut Northeast Utilities and United Illuminating have both begun public education programs in connection with the Edison observance. General Electric, GTE Sylvania, Northeast Utilities, United Illuminating, and other businesses taking part in the Centennial of Light are embarked, on a very useful endeavor. Projects such as the Centennial of Light help to insure continued American preeminence in technology.●

WATCHING THE TENG SHOW

● Mr. GOLDWATER. Mr. President, broadcast coverage of the recent visit to the United States of Chinese Vice Premier Teng Hsiao-p'ing by the Public Broadcasting Service failed entirely to address the vital issues raised by the Carter administration's abandonment of Taiwan. Instead, the American public was presented with a superficial image of a Communist dictator. This is the same Public Broadcasting Service which will benefit from the almost billion dollars in Federal funds authorized for public broadcasting in the 95th Congress.

Frankly, I am dismayed and disappointed at the willingness of some in public broadcasting to become tools of the Carter administration on such an important foreign policy matter. But, of course, this is not the first time that PBS has sought to improve the Carter administration's image. Not many months ago, I expressed the gravest concerns about the White House's use of public

broadcasting to cover the Vladimir Horowitz concert.

The President's media adviser at the time, Barry Jagoda, who was also involved in policy decisions affecting public broadcasting, reportedly advocated public broadcasting's coverage of the event as a good way of promoting the Carter cultural philosophy.

Barry Jogoda is no longer the President's media adviser. However, the lesson of the Jogoda-Horowitz affair has already been forgotten by PBS. Tom Shales' article in the February 11, 1979 issue of the Washington Post, "Watching the Teng Show" should serve as an effective reminder. As I read the article it seemed to me that PBS more appropriately stood for the Peking Broadcasting Service, rather than the Public Broadcasting Service. Many of the local public broadcasting stations, including those in my home State of Arizona, must have been greatly concerned about the coverage of this event.

I am sure my colleagues will agree that PBS should strive to promote a higher degree of journalistic excellence in reporting future national and international events.

Mr. President, I ask that Mr. Shales' article be printed in the RECORD.

The article follows:

[From the Washington Post, Feb. 11, 1979]

WATCHING THE TENG SHOW

(By Tom Shales)

We were bored. We were lonely. We lusted for a new superstar, and the media, especially television, were ready to supply one.

Teng went the strings of our hearts.

Now that the vice premier of China has gone home, it can't hurt to wonder if what we saw of Teng Hsiao-ping's visit to America on American television was reportage or the sale of a bill of goods. Network coverage of the visit—wags have dubbed it "The Teng Show"—seemed delicately deferential for the most part and unquestioning in a way that must have pleased the White House far too much.

More disturbing, in a subtler but perhaps more insidious way, was the treatment given Teng by federally funded public television on "America Entertains Vice Chairman Teng," a live special from the Kennedy Center that gave new meaning to the cliche "all smiles." Host Dick Cavett was all smiles, Jimmy Carter was of course all smiles, and public television was smiling itself into a dither.

George Stevens Jr., who produced the after-dinner entertainment, is certainly not to be faulted for the way he rushed together a presentable, warm and winningly eclectic smorgasbord of Americana—although highlights like the Joffrey Ballet and the Harlem Globetrotters were somewhat mitigated by the bumbling giggles of John Denver and the near-surgical heart-tugging of the cloyish Shirley MacLaine. But the production had both decorum and spirit, and this is certainly rare at a Kennedy Center gala, where things usually start on a level of stiff nightmarishness and get worse.

Public television's handling of the event, however, leaned toward obsequious reverence; public TV became a tool in the Carter Administration's campaign to put Teng, and normalization, over with the American people (the tool apparently needs sharpening, because a recent poll showed Americans divided over the president's decision to embrace China and foresake Taiwan).

It is true that an oil company coughed up the $500,000 to put the program on television, but there are still federal funds involved in any national public TV transmission. When we add that fact to the public-relations nature of the event, to the way public TV handled it, and to the political interests it served, the whole project takes on a distressingly propagandistic tinge.

It suggests that public television risks becoming, on such occasions of official ceremony, State Television, or Political Television, or, in this case, the People's Republic of Television. It might be healthier for the nation if the White House and public television were at each other's throats—as in Nixon days of yore—rather than have them bosom buddies scratching each other's backs.

At the opening of the broadcast, Cavett, ill-suited for such a role, narrated to fill time a taped replay of Teng's first day in the United States. Carter's repeated goofs in identifying the vice premier by title ("Mr. Prime Minister, Mr. Prime, Mr. Vice Premier . . .") were edited out of the tape and so were the appearances made by two pro-Taiwan demonstrators on the White House lawn. Nor was there any mention of the larger and noisier demonstrations that occurred on the other side of the White House and in Lafayette Park.

Instead, Cavett dismissed such events in a manner reminiscent of Marie Antoinette: "one or two inevitable hecklers were escorted away" was his only suggestion that discord had dared to intrude on nirvana. Was this because he didn't want to offend the vice premier, who could not possibly have been watching, or because he didn't want to upset the White House, which currently looks favorably on increased funding for public TV and might not look favorably on the exposure of a single wrinkle in the day's scenario?

As television, except for the lengthy translations of wordy introductions, this was not at all a bad show. Director Don Mischer caught a few privileged shots, like one of Carter escorting his guests into the presidential box of the Opera House, another of Teng, preparing to speak from the stage, removing a little piece of crumpled paper from his pocket and unfolding it as he had done earlier in the day. On it was his speech.

But then Cavett, whose eagerness to please bordered on *idee fixe*, committed his supremo blooper of the evening, identifying for the home audience a shot of "the distinguished Robert O. Anderson," president of the Atlantic Richfield Co. which had funded the broadcast. Considering the number of other dignitaries Cavett had failed to identify (including Kennedy Center Chairman Roger L. Stevens), this was an especially unfortunate mistake.

When it came to bowing and scraping before Teng and his allegedly charismatic presence, however, the commercial networks weren't exactly caught napping. Frank Reynolds ended an ABC News broadcast with a gush of flowery futurology about the wonderful new era beginning; it sounded not only premature, but also an expression less of Reynolds' awe at the grandeur of events at hand than of his desire to give TV viewers a cheerful little earful, no matter how windfilled and fanciful.

Over on the NBC Nightly News, Teng was bid farewell with a montage of happy images from the trip, while—though NBC News refused to credit the source—the Kennedy Center orchestra heard on the PBS broadcast played repeated chipper choruses of Rodgers and Hammerstein's "Getting to Know You." Again, discouraging words, or images, were verboten; none of the week's demonstrations or foul-ups were shown, nor did we see the fall, at a Houston Rodeo, of a horse whose rider carried the American flag.

It was at times as if television had decided to accept without debate precisely the symbolism that the White House wanted all the activities to have.

The American networks went out of their ways to assist the Chinese television personnel traveling with Teng. Much manpower and equipment was loaned for free. But Burton Benjamin, director of news for CBS News, said this week that the effort was not an attempt to curry favor with an eye toward future Chinese-network relations but rather reciprocity for help the Chinese gave American television when presidents Nixon and Ford visited China.

"No matter how hard we insisted, they charged us virtually nothing," Benjamin said. "So we offered to reciprocate. We supplied them a camera crew and producers. They paid for travel and living expenses and for satellite and transmission costs, by far the largest nut of the deal."

Benjamin said the CBS donation to the Chinese amounted to about $39,000.

He denied that "we gave this guy a free ride" and pointed to a piece done by correspondent Bernard Kalb on the CBS Monday Morning News telecast after Teng went home. Kalb expressed what many TV viewers may have been thinking—that there was a considerable disparity between the cuddly charming man that the correspondents kept describing and the actual figure of Teng we saw on the screen.

"Teng Hsiao-ping really is a feisty, tough, essentially ruthless political figure on the Chinese Communist scene," said Kalb. "And apparently, in some sort of hunger on the part of the media to establish an extraordinary personality, he has been endowed with attributes that I have not yet found."

Kalb didn't say it, but the thought has to arise: How much were the networks and public television used by the White House to communicate a point of view through the availability of staged events so terribly adorable that no news director would ever consider throwing them onto the cutting room floor?

"I don't think that people were really listening precisely to what Teng Hsiao-ping was saying," said Kalb. "It was a 'spectacular' that we were watching this week, but what we in fact were seeing was simply the packaging, the public packaging, for strategic self-interest."●

NATIONAL PARK SYSTEM

● Mr. JACKSON. Mr. President, section 8 of Public Law 94–458 directs the Secretary of the Interior to make several submissions to the Congress at the beginning of each fiscal year.

First, the Secretary is to transmit a listing, in generally descending order of importance or merit, of not less than 12 areas which appear to be of national significance and which may have potential for inclusion in the National Park System.

The law also requires a list of all National Natural Landmarks and all nationally significant areas on the National Register of Historic Places which exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of damage or threats.

On February 1, the Department transmitted this information to the Congress. Also on February 1, I received a letter from Assistant Secretary Herbst providing additional information, not required by the statute, regarding these section 8 areas.

Mr. President, I ask that the letter of

transmittal from the Department of the Interior pursuant to section 8, as well as Mr. Herbst's letter to me regarding these areas, be printed in the RECORD.

The material follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., February 1, 1979.

Hon. WALTER F. MONDALE,
President of the United States Senate, Washington, D.C.

DEAR MR. PRESIDENT: It is my pleasure to transmit to the Congress the annual report encompassing the National Park Service new area studies, and the list of those areas included in the Registry of Natural Landmarks and areas of national significance included in the National Register of Historic Places which exhibit known or anticipated damage or threats to the integrity of their resources. This report, prepared in compliance with Section 8 of Public Law 91-383, as amended by Section 2 of the General Authorities Act (P.L. 94-458) provides the Department of the Interior an excellent opportunity to institute a methodical approach for identifying potential new areas and monitoring the welfare of National Natural and Historic Landmarks.

The law requires that at the beginning of each fiscal year, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of naticnal significance and which may have potential for inclusion in the National Park System. Such listing may be comprised of any areas heretofore submitted under terms of the law, and which at the time of listing are not included in the National Park System. In compliance with this provision, I am submitting ten studies. We had earlier planned to submit seventeen studies, but in the final days of the last Congress, seven of our study areas were added to the National Park System. In view of the length of time required to study an area for its feasibility/suitability as a park and our lack of a backlog of additional completed studies, we cannot submit the full twelve studies required. Of the ten studies submitted, seven are resubmissions of those in last year's report (November, 1977). Two of the new studies were completed under the requirement of P.L. 94-518, approved October 18, 1976.

In my judgment, these studies cover resources having potential for inclusion in the National Park System. Any recommendation to actually include these areas in the National Park System would, of course, be made only after a thorough study of all the potential land uses of the area. The list of areas presented, therefore, does not constitute a legislative proposal. The Administration's further views on these areas will be presented in an additional letter which you will receive shortly.

Recommendations embodied in six of the studies were accomplished by the enactment of the "National Parks and Recreation Act of 1978," which occurred during the review within the Administration of this annual report. One study area, the San Antonia Missions area, became a unit of the National Park Service by the enactment of S. 1829. In light of the enactment of these two pieces of legislation, we would question the necessity of printing these seven studies as required by section 8.

I have not included in this submission proposed additions to the National Park System for which the Administration has recommended the enactment of legislation. For example, these include the Alaskan proposals for the National Park System, and the addition to the Mississippi River. These areas are nationally significant and the Administration strongly supports legislation for them. However, I have chosen not to duplicate in this list the information contained in our legislative reports on those proposals.

The law also requires a list of all National Natural Landmarks and all nationally significant areas of the National Register of Historic Places which exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of damage or threats. Separate lists of Natural and Historic Landmarks so damaged or threatened are enclosed.

Of the 44 Natural Landmarks reported as damaged or threatened last year, 14 have been deleted from the list because they are no longer considered to be endangered. As a result of the current review, an additional 25 landmarks have been included in the report for a total of 55. 41 are either entirely or partially in public ownership; Federal agencies administer, either wholly or in part, 31. The major threats to Natural Landmarks are posed by mining activities, commercial development, and water related projects.

There were 101 areas of national significance listed in the National Register of Historic Places which were reported as endangered in 1977. 40 of these are listed again in this year's report; 61 are not. For several, such as the Fox Theater in Atlanta and the John Adams and John Quincy Adams Birthplaces in Quincy, Massachusetts, resolutions to the imminent threat have been developed. For others, a year of monitoring and subsequent reevaluation of the anticipated threat or damage have caused those resources to be deleted from the report. Unlike Natural Landmarks, most of the Historic Landmarks reported this year are in private ownership. Few are directly affected by Federal projects. The primary threat to these nationally significant cultural resources is economic, either due to lack of funds for preservation and maintenance or due to commercial development pressures.

The Department of the Interior is the major, but not the sole, component in a nationwide conservation and preservation network which comprises Federal, State, and municipal agencies and the private sector. This network, however, is highly dependent upon the active participation of all its components in order to ensure the conservation of our natural and cultural resources. As expressed in my letter of transmittal last year, it is essential that the non-Federal participants continue to receive technical and financial support in their efforts. Some of this support is provided directly by the Department through the Land and Water Conservation Fund, and indirectly through the provisions of Section 2124 of the Tax Reform Act of 1976.

This past year, by Secretarial Order, I have transferred the responsibilities for the Historic and Natural Landmark Programs from the National Park Service to the Heritage Conservation and Recreation Service. The Heritage Conservation and Recreation Service will recommend to me additional natural areas and historic places to be given landmark status, monitor the welfare and integrity of all such areas and historic places, and provide information and technical and non-technical assistance to landowners of threatened resources to increase their awareness of the values of those resources. The Heritage Conservation and Recreation Service will also disseminate information on both landmark programs to State and local governments and encourage all levels of government to protect the areas by using a full array of protection and preservation techniques. With the rapid increase of land values and inflation, we must utilize every means available to ensure protection and wise stewardship of those resources.

Through section 8, the Congress has given the Department an expanded opportunity to provide more consistent direction for the growth of the National Park System and the protection of our Nation's natural and cultural heritage.

We appreciate the opportunity to provide this information.

Sincerely,

BOB HERBST,
Assistant Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

In Reply Refer To: L58(170)

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the authority of Section 8, of P.L. 94-548, we are submitting to you under separate cover the list of ten areas which may have potential for inclusion in the National Park System. The purpose of this letter is to inform your Committee of the Administration's further views as to whether or not these areas should be added to the System. These views depend not only upon professional evaluation of the resource encompassed by the study area, but also upon such factors as cost, management alternatives, immediacy of the threat to the resource, etc. Each of the ten study areas submitted have been placed into one of three categories:

1. areas which the Administration and the Department can support for inclusion in the System,

2. areas for which additional information must be obtained for consideration prior to a decision on whether or not to add the areas to the System,

3. areas which the Administration and the Department cannot support for inclusion in the National Park System.

The Department of the Interior is presently prepared to support the enactment of legislation to add to the System the following two areas, subject, of course, to the review and consideration of the specific legislative proposals: the City of Rocks National Monument in Cassia County, Idaho; and the Hopeton Earthworks Historic Site in Ross County, Ohio. With regard to these areas the Department will prepare and soon submit draft legislation.

With regard to six of the areas, the Department of the Interior is not yet prepared to recommend either for or against addition to the System. Although the resources of each of these areas appear to be of National Park System quality, we currently lack much of the information necessary to make a policy choice as to the disposition of each area. We recommend that congressional consideration of any of these areas await development of this information. The following is a brief description of the additional work which should be done regarding each of these study areas.

Olmsted Home and Office in Brookline, Massachusetts—We believe that some degree of Federal involvement in the preservation of the site and the collection of Olmsted's work would be appropriate. However, the statement made in the study notwithstanding, there may be some viable possibilities for non-Federal acquisition or management of the site or collection. In the near future we hope to settle on an appropriate Federal role at the site, and we expect that a legislative proposal can be ready within a couple of months.

Prairie Park in Kansas and Oklahoma—This study area will require additional work on boundaries and management concepts prior to any decision on whether or not to support addition of a prairie park to the System. We foresee being able to make this decision around mid-year of 1979.

Channel Islands in California—This study area is in the final stages of the review process, with updated land status information and costs data to be available shortly. Although acquisition cost data is currently

not available, there is a likelihood that the cost will be high. We cannot yet recommend whether or not to add the area to the System.

Valle Grande in New Mexico; Potomac River in Maryland, Virginia, and West Virginia; and the Great Basin in Nevada—For these areas we are updating basic resource data and exploring various boundary configurations and management concepts, be they local, State, or Federal. We do not expect recommendations on the Potomac River or the Great Basin to be made until after 1979, while the work on Valle Grande may be completed somewhat earlier.

Finally, there are two areas which we have studied thoroughly but which we cannot recommend for inclusion in the National Park System. The Mount Mitchell area of North Carolina is a significant natural area which contains some of the highest peaks in the Eastern United States.

However, the area is being adequately managed at present and there is strong local opposition to designating the area as a unit of the National Park System. The situation is similar at the Hagerman Fossil Beds Site in Idaho. The Bureau of Land Management, the present manager of the area, has produced a formal plan to protect the resource and the strong local support necessary for effective National Park Service management of the area does not exist.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BOB HERBST,
Assistant Secretary.●

SIXTY-FIRST ANNIVERSARY OF THE ESTABLISHMENT OF THE MODERN REPUBLIC OF LITHUANIA

● Mr. WEICKER. Mr. President, subjugation of human rights has been the existing condition in many of the Eastern European nations for almost 35 years. Lithuania, a nation of 3 million people, is one such affected nation. Our attention to this matter is of particular importance now, as this week marks the 61st anniversary of the establishment of the modern republic of Lithuania.

The American people share a deep commitment to the ideals of freedom and equality. Because of this heritage, basic U.S. foreign policy considerations are, and always have been built upon a strong commitment to the rights and self-determination of all nations around the globe. We remain committed to the basic values of human life and continue to support and defend these ideals around the world. Our efforts in this area must continue unabated.

Mr. President, we are all aware of the great injustices which have been inflicted upon the peoples of Eastern Europe at the hands of the Soviet Union, with which we are currently engaged in a range of diplomatic negotiations. It is apparent that the Soviets have disregarded previously signed and enacted unilateral accords and treaties in this area. Obviously this is a crucial point for the United States to consider when approaching subjects such as détente, economic cooperation and strategic arms negotiations.

Mr. President, if the protection of human rights is to be an effective premise of U.S. foreign policy, it is imperative that we be aware of existing violations and put that knowledge into action. We in Congress must renew our efforts to attempt to deal with these blatant human rights violations. The oppressed peoples of the world must not be overlooked in the political interaction of the major superpowers. It is our duty and special responsibility as the leader of the free world to speak up and assist, whenever possible, those nations which suffer under the yoke of oppression.●

JOHNNY LONDOFF—HUMANITARIAN

● Mr. EAGLETON. Every day, Mr. President, our newspapers are filled with stories of men and women of noteworthy achievement. Almost always, those who have achieved great things have benefited greatly from their own achievements. Self-interest is a pervasive and powerful motivator.

Only occasionally are we privileged to read who has achieved not only greatly, but also selflessly. Such a man is my friend and fellow Missourian, Johnny Londoff of St. Louis.

By trade, Johnny Londoff is an automobile dealer, and I might add that he is one of the most successful auto dealers in our State. He rose to the top of his profession on the strength of his great ability as a salesman. That same ability also has served him and his community well in his avocation, as an organizer and fund raiser for many charitable enterprises. Among these charities, Johnny Londoff is known as a "soft touch." When a charity puts the touch on Johnny Londoff, though, they do not come away with $5 or $10. They come away with hundreds, thousands, even millions, all thanks to the energy, dedication, and good-heartedness of this man.

Recently, Mr. President, the St. Louis Globe-Democrat honored Johnny Londoff as St. Louis' "Humanitarian of the Year." It was a richly deserved honor, and I ask that the Globe-Democrat article describing the good works of this distinguished Missourian be printed in the RECORD.

The article follows:

[From the St. Louis Globe Democrat, Jan. 16, 1979]

JOHNNY LONDOFF WINS HUMANITIES AWARD

(By Mary Kimbrugh)

He could sell a jar of peanut butter to Jimmy Carter and a case of beer to Billy, wheedle a Christmas turkey and a smile out of Scrooge or trade a second-hand Edsel to Henry Ford for a 1979 Lincoln Continental and pocket the change.

As a matter of record, Johnny Londoff did sell Edsels once, not to Henry Ford but to eight fellow St. Louisans and all in the space of one weekend. It may have been the supersalesman's greatest coup.

That was in 1957. John H. Londoff, the promising young North St. Louis automobile dealer, had been given the entire North Side as his exclusive territory. When the other three St. Louis Edsel dealers folded, he had the whole town to himself.

He still lost money. Every week. But it was probably the last time.

Since then, the son of a Macedonian immigrant, trim, 5 feet 10 inches tall, his dark hair and eyes reflecting his middle European heritage, has been a Chevrolet dealer. In 1960, he moved his agency to Dunn Road in Florissant and today the little boy who worked in his dad's lounges and bowling alleys and delivered heavy cases of beer in the neighborhood for a 10-cent tip, is a well-to-do business executive. He is a civic and community leader, member of industry and agency boards, a happy husband and father and, even though he ladles out credit to others, a one-man charity blitz.

He's David Harum in a three-button suit, a born salesman with a silver tongue who long ago learned to turn gab into gold, and keeps two telephones on his desk to make sure he doesn't miss any calls. When that call is about one of his favorite charities, he's a self-admitted conman. His friends warn that when Londoff is collecting funds for one of his causes, keep your hands in your pockets and your checkbook out of sight or you haven't got a prayer.

But he also dips deep into his own.

This past June, the 200th scholarship was presented through the Johnny Londoff Chevorlet College Scholarship Program, which he established 16 years ago and personally finances.

As chief barker (president) of the St. Louis Variety Club, he has raised on his own more than $1 million of the $4 million contributed through the club's annual telethon, "The Crusade for Forgotten Children," and allocated to local children's charities. He gives the bulk of his time from October to February to the cause and holds the all-time record for the sale of $100 tickets to the Dinner with the Stars that precedes the telethon.

For his volunteer work, he has been named Man of the Year by the St. Louis Variety Club and in 1977 was awarded an International Presidential Citation by Variety Clubs International during their 50th annual convention in Monte Carlo.

He sponsors 14 Khoury League teams and has been North County chairman for Friends of Scouting. He sponsored an Invitational LPGA Golf Tournament at Glen Echo Country Club as a fundraiser for six agencies serving mentally retarded children.

He is president of the board of Holy Trinity Church in Madison, Ill., first and oldest Bulgarian Eastern Orthodox parish in America. It is a post his father, the late Harry Londoff, also held.

But exclusive franchises are for cars, not for charity. In addition to his own church activity, he is a member of the board of directors of Dismas House, a committee member of the City of Hope and Bonds for Israel, on the board of directors of the Child Center of Our Lady of Grace, and has raised funds for the Department of Special Education for the Archdiocese of St. Louis.

Add them all together and you come up with a new title for the big-hearted businessman.

Humanitarian.

Johnny Londoff, executive, community leader and activist for good causes, is the recipient of The Globe-Democrat's 20th Annual Humanities Award.

Presented to "that citizen whose entire life truly reflects the universal aspiration of mankind toward the Fatherhood of God and the brotherhood of man," the 1978 award recognizes Londoff as "special friend to special children, untiring champion of the handicapped, beacon of hope for the forgotten and unfortunate."

The award will be given, along with a $1,000 check from The Globe-Democrat, at a ceremony at 11 a.m. Monday, Jan. 29, at the Breckinridge Pavillion Hotel.

With the honoree that day will be the people closest to him: his mother, Mrs. Harry Londoff; his wife, Sylvia; his daughters and son, Laura, Linda, Jackie and John Jr.; and his sister and brother, Harriet and Harry Jr. He'll remember his dad and wish he were there to share the moment and tell him when to stop talking. And when he remembers, he just may choke up.

At 54, Johnny is as sophisticated as a cummerbund and as old-fashioned as a bathrobe. He has never left the North Side, where he was born, although he has moved west of the old neighborhood. Shortly after his marriage he built a handsome, though not palatial, house just a few doors from his mother's home and he stops by to see her and Harriet every day before he goes home for dinner.

When his father died in 1968, Johnny wrote in a special tribute:

"In Macedonian, there is a word 'dobrow chovek' which means 'good man.' This word, either in his native tongue or in English was used to describe Harry Londoff all his life . . . a good man who didn't understand a word of English. He knew only one thing, hard work. . . . His first 'business' was a candy counter with Uncle Mike in an area at Jefferson and Franklin. . . . My dad had unlimited faith in the future of St. Louis and invested his hard-earned savings in real estate. But as he moved from his hole-in-the-wall candy counter to the ice cream factory to progressively larger ventures, including two bowling alleys, a theater, a succession of cocktail lounges and several automobile agencies, his work habits were the same. He spent long hours at his place of business and was never too good for any job no matter how menial."

This, then, was Johnny Londoff's inheritance: faith in the future of St. Louis, business brains and hard work.

Johnny's dad had wanted him to go to Harvard and become a lawyer, but Harry Londoff had introduced him to the business world and it was in his blood.

Even so, a graduate of Beaumont High School and Western Military Academy, he continued his education, amassing nearly three years of credits at Washington University and in studies for two West Point appointments before he chose automobiles over the army.

At Washington U., he was a member of Sigma Nu fraternity, and he and Sylvia returned to the campus to be married in Graham Chapel.

His career had begun just after World War II. Back from service with the Marines, he was so eager to get into the automobile business that his dad gave him a financial boost.

In 1947, with $30,000 capital from the senior Londoff and more spunk than know-how, he and his sister opened a Kaiser-Frazier agency at 4718 Natural Bridge Ave.

Harriet is now active in her own businesses but his brother, Harry Jr., works with him some and Laura, 24, and Linda, 22, both graduates of Southern Methodist University, are full-time employees. John Jr., who at 8 was his hard-working, pinch-hitting "porter" during a nine-month-long labor dispute, works there during vacations and probably will be the next generation Johnny Londoff, St. Louis automobile dealer. The youngest of the clan, 18-year-old Jackie, attends school in St. Louis.

Sylvia, the slim, attractive daughter of Londoff family friends, who shared the Londoffs' European heritage, worked at the agency for a brief time after their marriage more than 25 years ago. Her career, they agree with a laugh at the memory, was terminated by mutual consent and the imminent arrival of Laura.

"She would watch me leave at 7 in the morning and I wouldn't get home from work until 10 or 11 at night. She complained about not being with me so I told her to come down and work. She answered the phone and made out the bank deposits.

"One day a banker called and said 'John your checks are bouncing all over town.'

"I told him he was crazy, that we had a sizable amount of money in the company account. He said, 'John, you haven't got a dime.'

"We started checking and found that Sylvia had been depositing everything simply to John Londoff. I had $106,000 in my personal account."

Just at that time, Sylvia became pregnant and both agreed it was time for her to stop working. Since then, the auburn-haired Sylvia, as outgoing and amiable as her husband, has been a mother and homemaker.

Their romance was, if anything, unusual. Their parents thought they would make a perfect pair. John and Sylvia weren't so sure.

"We didn't like each other at first, when we were kids," says Johnny.

"Everyone called him 'Pretty Boy,'" adds Sylvia.

"I remember the first time we went dancing, he told me, 'You sure have big feet,' I walked right off the floor and left him."

At first, Sylvia was convinced he was not only a 'pretty boy' but also a confirmed playboy.

"He could go out only on Saturday nights because he worked the rest of the time and we would stay on the east side dancing and having drinks until 3 or 4 in the morning."

But once they fell in love and decided to marry, Johnny's image as a breezy, blithe playboy changed, and Sylvia learned that, if anything, he's a workaholic. Today, he neither drinks nor smokes. He quit both, along with coffee, cold turkey.

But, despite his long hours at the office and in his volunteer work, there's always time for the family.

With his children, Johnny can be as stern as a Victorian father, as generous as a doting uncle and as sentimental as a bunch of violets. Laura and Linda sophisticated and popular girls, live at home by choice, and usually the whole family vacations together.

When each of his older daughters reached her 18th birthday, while she was away at school, he wrote a letter so sentimental that everyone, including Johnny and his secretary who typed it, cried.

"You have brought us great love, tenderness, warmth and happiness and a few headaches. But a jubilation and joy I pray the good Lord give you someday as a parent."

But, with the affection, there was also some "plain fatherly advice."

"Start off on the right foot," he wrote, "keep your cool, run slow, pray for your dad, continue to work and study industriously and try to make us more proud of you than we are (if that is possible). Drive carefully. Accept your freedom in an adult manner. Be discriminating in choosing your friends. Pray for your dad! Just strive to do your best honey, and as you often heard me say to our loveable Jackie, 'Be a lady'—which I know you are and will always be. I am so very proud to have you as my daughter!"

He also has been known to ask their boyfriends so many questions that some of them have disappeared forever.

Nightly, in a long-standing ritual, Johnny goes from room to room, kneels and prays over each of his children.

"Once," remembers Linda, "he prayed over Jackie so long that she told him to hurry up and pray faster so she could get some sleep."

Linda laughs. So does her dad. In the Londoff household, they can dish it out and they can take it.

He and his family have made special gifts to St. Mary's School for Special Children, whose director, Msgr. Elmer H. Berhmann, received the 1977 Humanities Award. But Londoff's public charity is not limited to one agency or institution. He wants to help all children.

That's why, one day in his office, he got the idea of his scholarship program.

"It was really no big deal. I had had a pretty fair year in 1962 and so I called the principal of McCluer High School right across the street and offered to give $1,000 for some student to go on to college.

"He came to see me a few days later and asked if I would make that four scholarships of $250 each for the Junior College which was just then starting. He said that would give four young people a foot in the door and, if they were the right kind, they'd find a way of staying there."

It was supposed to be a one-shot deal, but Johnny just couldn't give it up. The program was expanded and today, the recipients attend schools throughout the country.

"I can't tell you the letters I have received. You would think I had given them $250,000 instead of $250—and incidentally, that has now gone up to $300. Sometimes a child will feel that he was bypassed and cheated because he never had an opportunity. But if you give him that opportunity and he finds he isn't college material at least he will know it instead of thinking all his life he could have made it with the right opportunity, and condemning parents or society or whatever."

Londoff has nothing to do with the selection. He is told what school the recipient will attend and sends the money directly there.

Often, years later, he has run into one of the winners who has told him how much the assistance meant in his life. Many are now St. Louis business people and some have gone on to become doctors or lawyers.

But Johnny is also an impulse giver, points out one associate. If his heart is touched, his billfold will be, too.

"Once he heard of a family which needed help at Thanksgiving. He pulled out $75 and sent two of us over to the supermarket to buy food."

He admits he could be taken in by a sad story. But that doesn't hold him back.

"I really feel," he said, "no one is going to ask for help who doesn't need it."

One day Londoff received a letter that was destined to change the lives of many more thousands in need of help. It was form Joe Simpkins, chairman of Tiffany Industries Inc., recipient of the 1972 Globe-Democrat Humanities Award and at that time chief barker of the Variety Club. The letter was an invitation to join.

"I accepted," says Londoff. "It probably was the best thing I ever did."

It meant that the supersalesman would give young people not only a foot in the door but a second chance at a good life.

He does much of it over the telephone and the luncheon table.

Londoff makes more calls than a houseful of teen-agers or the town gossip just back from the beauty shop. Put him up in front of a public meeting and he's as jittery as a 12-year-old on his first formal date. But hand him a telephone and he becomes the sweetheart of Ma Bell and a one-man benevolent boilerroom.

On his paper-laden desk is a yellow pad, methodically filled with names of individuals and corporations and suggested pledges. They're checked off as they promise to give —and Johnny isn't about to hang up until he hears the magic word.

He usually hears it, too.

"Most people want to help. If I could sell cars like I can sell tables and ads for the program, I'd have so much money of my own that I wouldn't have to go after pledges. I could just buy out the whole Khorassan Room and give it away."

As it is, he personally sells at least half the tables that are bought for that special extravaganza.

When the Chase-Park Plaza, for 24 hours of show time and charity, it transformed into the Palace on the Mississippi, the self-confessed ham with the heart of a hoofer is a stagedoor Johnny, as gleeful as a Broadway investor reading first-night rave reviews.

He not only signs up pledges. He signs up the stars. And his favorites of all who have appeared on the show are Monty Hall and Carol Lawrence.

"They are a special breed," he says.

Their household is a blend of discipline and easy-going cameraderie. Londoff religiously does his 75 push-ups every day and rides three miles on his stationary bicycle to keep his weight at 155. He's a meticuluous dresser, with so many suits that he may wear one of them only four times a season, and he can't stand to see anything out of place.

But he's a martinet with a marshmallow heart and his love for his family, says one good friend, is like a pebble dropped into the water.

"It just keeps on going out and out and encircling more people."

Still, when he's mad, he can turn into a bulldog. That's what happened in his church a year or so ago when a schism developed and a priest was threatened with ouster.

Johnny didn't like the odds.

"He couldn't defend himself," he says.

Londoff even went to court to help get a permanent injunction.

Now that the matter has been settled legally, Londoff is like a Macedonian Henry Kissinger, a diplomat helping to heal the painful wounds.

Come to think of it, the supersalesman of cars and charity probably could sell Kissinger an airline ticket—and give the money to one of his causes.●

SEVEN LEAN YEARS

● Mr. GOLDWATER. Mr. President, President Carter and the leaders of his administration would like the world to believe that the conclusion of a SALT II agreement and its subsequent ratification by the U.S. Senate would be a cause for rejoicing, that it would greatly enhance the prospects of peace in the world and contribute greatly to a reduction in the international arms race.

A recent article in the Economist magazine claims that there is no cause for rejoicing. It explains: "For a mixture of reasons, ranging from the nuclear weakness Mr. Jimmy Carter inherited on becoming President 2 years ago to his own failure to bargain adamantly enough since then, the SALT II treaty . . . which is designed to last until the end of 1985 could be the beginning of seven singularly dangerous years."

Mr. President, I ask that this editorial entitled "Seven Lean Years" be printed in the RECORD.

The article follows:

[From the Economist, Dec. 30, 1978]

SEVEN LEAN YEARS

An eve-of-Christmas near-agreement between Russia and America about nuclear weapons, with the last details almost certain to be wrapped up in the new year, might seem occasion for rejoicing. It is not. For a mixture of reasons, ranging from the nuclear weakness Mr. Jimmy Carter inherited on becoming president two years ago to his own failure to bargain adamantly enough since then, the Salt-2 treaty which Mr. Cyrus Vance and Mr. Andrei Gromyko carried to the verge of completion in Geneva on December 23rd, and which is designed to last until the end of 1985, could be the beginning of seven singularly dangerous years.

THE ROCKS AHEAD

The relatively minor problem the Salt-2 negotiators have been quibbling about all through 1978—the treaty was originally supposed to be ready by the time Salt-1 ended in October, 1977—seem to be coming out rather more in Russia's favour than America's (see the box overleaf). But none of these affects the core of the Salt-2 agreement. The disturbing basic shape of that agreement was settled in the first wavering year of the Carter administration. It points to three large future problems.

1. On the surface, the proposed new treaty is neatly balanced; but it conceals, just under the surface, a large imbalance in Russia's favour. The supposed superiority of the Salt-2 agreement—compared with the first Salt deal in 1972, which merely froze the Soviet lead in missile numbers at the time—is that it lays down exactly equal permitted totals for each side; 2,250 nuclear launching vehicles of all kinds, of which 1,320 can carry Mirv multiple warheads or cruise missiles, and so on down through the various sub-sections.

But in fact, whereas the current Soviet missile-building programme will have no difficulty in filling most of the permitted totals, the existing American armoury and present American building plans mean that by 1985 the United States will be behind Russia both in the overall total and in some of the most important sub-categories. (The most striking example is "modern large" missiles, where the Russians will be allowed to keep their 308 huge 10-warhead SS–18s but the Americans will have none at all.) Anyway, this deceptive equality in simple numbers also conceals a growing Russian advantage in other aspects of nuclear power. This second-level Soviet advantage is a result of the fact that the Russians are building several land-based missiles bigger than anything the Americans possess, which can carry a much larger explosive load. By 1985, the Russians could have a lead of more than 3 to 1 in the total number of megatons that can be dropped on the other side, and 7 to 1 in megatons carried in land-based missiles; in consequence, a lead of 3 to 2 in their ability to destroy protected targets, such as missile silos; and a lead of more than 2 to 1 in their ability to destroy unprotected targets, such as cities.

Even if these figures were not militarily important (and they are: see point three), they would have unpleasant political consequences. The allies of the United States have got into the habit of measuring its ability to protect them against Russia by totting up the units of American nuclear power. That is the "nuclear umbrella". If that power is seen to be getting smaller than Russia's, one spoke of the umbrella after another, public opinion in these allies will grow more nervous about the value of American protection; and nervousness could crack the alliance.

2. The most dangerous place for such mistrust to grow is western Europe. The second major criticism of Salt-2 is that it has managed to increase Europeans' doubts about America most of all.

The planned treaty, while setting limits on the number of missiles Russia can aim at America, says nothing about the growing number of missiles it points at western Europe, especially the powerful new SS–20; and the only reference to Russia's Backfire bomber will apparently be some sort of Soviet "assurance" (outside the treaty itself) that this Europe-busting nuclear-bombing aircraft will not be used to bust America too. This hardly encourages the Europeans. They are not reassured by the fact that the American-designed cruise missile, which could be one way of equaling things may be denied to them under the Salt–2 clause which says that neither side may do anything to "circumvent" the treaty. The Americans say this should not prevent them providing the Europeans with the knowhow, and maybe some of the parts, to make the cruise missile; but Russia says flatly it will prevent just that.

The Europeans also find it worrying that the kinds of cruise missiles most useful to them—the ones launched from ships or from the ground—will be limited to a feeble 375-mile range by the protocol which will regulate a few particularly tricky problems during the first two or three years of the general treaty. They suspect that when those two or three years are over Russia will try to bully Mr Carter or his successor into prolonging the protocol, and with it the range restriction, and they are not confident of Mr Carter's ability to defy Russia. All in all, Mr Carter may discover at the Guadeloupe summit next Friday that the Europeans are not comforted by the suggestion that "your problems will be dealt with in Salt-3"—after 1985.

3. But the biggest problem with Salt-2, the wobbly cornerstone which makes the whole structure tremble, is that it may leave the United States itself vulnerable to a surprise Russian attack.

By the early 1980s, the growing number of increasingly accurate warheads Russia can pack into its huge missiles will put it in a position of being able to destroy virtually all of America's land-based missiles in a single half-hour cataclysm, while still keeping quite a lot of its own missiles in reserve, ready for a second blow. (By comparison, the Americans could probably knock out only about two thirds of Russia's land-based missiles in a similar first strike of their own.) If that Russian first strike did happen, an American counter-attack against the Soviet missile system would have to depend mainly on the aircraft-carried cruise missiles permitted under Salt-2, which would take 10 hours to trundle towards their targets—and even then would destroy not much more than half of the Soviet launching silos.

This is not "parity". It is often said, quite correctly, that even with these advantages the Russians would probably not press the button for the unimaginable ghastliness of a nuclear exchange. This misses the point of nuclear mathematics. The point is that the Russians would not have to. If they know that even a theoretical exchange of Soviet first strike and American counter-strike would leave them with more surviving missiles, which would then hold America's cities hostage, they would know that the American president would know it too; and that he would be paralysed by his knowledge as the grisly game of bluff and counter-bluff moved closer to button-pressing point. This is the political reality behind the apparently abstract calculations of who-would-have-more-missiles-left.

HOW IT WENT WRONG

It is by no means entirely Mr Carter's fault that Salt-2 is now carrying the west towards these three rocks. The first Salt agreement, in 1972, set limits on the number of missiles the Russians could build but not—the heart of the present trouble—on the size of those missiles. In the years after 1972, while the Russians were testing and then deploying their new giants, the Americans were so mesmerised by Vietnam and Watergate that they failed to spot the danger and start an adequate new missile-building programme of their own. Mr Carter went into Salt-2 with this inherited weakness. Nevertheless, he could have made things better—or less bad—if he had stuck to his original demand of March last year that the Russians should halve the number of their very biggest SS–18 missiles. Instead, the Russians shook their heads and he backed down.

SALT TILTED, EVERYTHING TILTED

The nuclear balance, or imbalance, is the starting-point of every international political calculation. But there are other factors at work, too, which could tip the balance even more steeply against the west.

There is the competition in non-nuclear military power, where Russia is also trying to establish its claim to be primus inter pares. In central Europe the Russians are already ahead of the Nato allies in several of the main things by which non-nuclear strength

is measured, and the 3%-a-year increase in Nato defence spending which was meant to restore the balance is now threatened by Mr. Carter's desire to cut the next American budget. Even if Nato's 3% is saved, it may be at the cost of cutting the "non-Nato" part of the American defence budget (if such a distinction is in fact possible), which would make America weaker in the world outside Europe. But the loss of the old American nuclear superiority makes it even more necessary for the west to match the Russians in non-nuclear forces anywhere, if it is not to find itself faced down in one local confrontation after another.

There is also the matter of what can only be called political-military will. The Russians have, among their allies, a Cuba willing to keep 40,000 or more troops in Africa and south-west Asia, a Vietnam content to have put its army across the Cambodian border, an East Germany lavish with "advisers" in foreign parts; and in Russia itself, a public opinion that is no obstacle to the generous distribution of Soviet military aid between Kabul and Luanda. The lone example of Mr. Giscard d'Estaing's France apart, can the Americans find among their allies—or in themselves—even a fraction of the countervailing political-military will that may be needed in the next seven years?

It is not possible to stop the Soviet Union from expanding its military power: guns, after all, are the one thing the Soviet economy is good at. It is estimated to prevent that Soviet expansion proceeding to the point where it controls the commanding heights, nuclear or non-nuclear. There are still things that can be done to avoid that. The American senate may insist, as the price of its ratification of Salt-2, on an acceleration of the new mobile missile the treaty allows America to build, and other measures to shorten that dangerous period of American first-strike vulnerability. The 3% increase in general Nato defence spending may be rescued, and its benefits not confined to Europe. But unless something is done to block the trend, the coming years are going to be the roughest the west has yet faced against Russia.●

APPOINTMENTS TO THE NATIONAL ALCOHOL FUELS COMMISSION

● Mr. BAYH. Mr. President, I am pleased to announce that on January 31, the congressional members of the National Alcohol Fuels Commission, which I chair, were appointed.

My bill S. 2400 establishing this Commission was incorporated into the Surface Transportation Assistance Act in the closing days of the last Congress. The Commission will have 19 members—12 from the Congress and seven public members, representing the fields of industry, labor, agriculture, small business, and consumer affairs, who will be appointed by the President shortly.

Mr. President, I am extremely optimistic about the potential of alcohol fuels in this country. They represent a way to use domestic renewable resources, such as agricultural products and even urban wastes, to lessen our dependence on fossil fuels and on foreign suppliers. Gasohol—a 90-percent gasoline/10-percent alcohol blend—is a prime example of how alcohol fuels can be used to stretch our present energy supplies. Gasohol is being used successfully in automobiles without modifications to the engine, and is being sold in more and more locations throughout the country.

I would like to emphasize, Mr. President, that the National Alcohol Fuels Commission does not represent another layer of bureaucracy which would only serve to hamper the development of this resource. Instead, the panel will make a year-long study of alcohol fuels, their potential end-uses, and ways in which the Federal Government can assist the private sector in their development. After this study is completed, the Commission will end.

Mr. President, I am hopeful that we will soon be able to get the Commission underway, and I am looking forward to working with those of my distinguished colleagues who have been appointed to serve. In accordance with the language of Public Law 95–599, two members each have been appointed from the Senate Committees on Appropriations, Agriculture, and Energy, and two each from the House Committees on Appropriations, Science and Technology, and Agriculture. The Senate members, appointed by the President pro tem, are: Myself and the Senator from Oklahoma (Mr. BELLMON) from Appropriations; the Senators from South Dakota (Mr. MCGOVERN) and Kansas (Mr. DOLE) from Agriculture; the Senators from Idaho (Mr. CHURCH) and Oregon (Mr. HATFIELD) from Energy. The House members, appointed by the Speaker, are: Congressmen ROBERT ROE from New Jersey (who will be vice chairman) and JAMES BLANCHARD from Michigan, from Science and Technology; Congressmen BILL ALEXANDER from Arkansas and ROBERT MICHEL from Illinois, from Appropriations; and Congressmen DANIEL GLICKMAN from Kansas and THOMAS HAGEDORN from Minnesota, from Agriculture.●

SECTION 504, REHABILITATION ACT, AND THE NATIONAL ENDOWMENT FOR THE ARTS

● Mr. JAVITS. Mr. President, section 504 of the Rehabilitation Act of 1973 is recognized throughout our Nation as landmark legislation which affirmed the Federal Government's commitment to equal opportunity for the handicapped. After considerable discussion over regulation, section 504, which states "No otherwise qualified handicaped individual in the United States * * * shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance," is beginning to be implemented in Federal agencies and federally supported programs.

The National Endowment for the Arts has worked diligently to insure that the arts are accessible to handicapped individuals throughout America. Livingston Biddle, Chairman of the Arts Endowment, has written me outlining the efforts made by the endowment to assist arts organizations in providing the handicapped equal opportunity for participation in the arts. I commend his letter to my colleagues and ask that it be printed in the RECORD.

The letter follows:

JANUARY 17, 1979.

Hon. JACOB K. JAVITS,
U.S. Senate, Washington, D.C.

DEAR SENATOR JAVITS: I want to take this opportunity to report to you on the National Endowment for the Arts' progress concerning nondiscrimination of the handicapped and the promuglation of new regulations to implement Section 504 of the 1973 Rehabilitation Act.

Since the passage of the 1973 legislation, the National Council on the Arts has passed two resolutions urging arts organizations to include the handicapped in their programs. Since 1974, the Endowment has had the National Arts and Handicapped Information Service provide information and conduct research on arts programs for the handicapped. Materials from the Service have been widely distributed throughout the country to individuals and organizations representing the arts and the disabled. Copies of the Service's recent materials are enclosed for your information.

In 1976, the Endowment created the new position of Coordinator of Special Constituencies with primary responsibilities for advocacy with arts organizations to encourage them to develop ways of including the handicapped, older adult and institutionalized populations in their programs. As well as initiating an advocacy program, the Coordinator has been able to provide information and direct technical assistance to many Endowment grantees seeking to serve special constituencies.

Early in 1978, the Endowment convened a task force composed of Endowment panel members and handicapped individuals to review our proposed regulations and to suggest ways the Endowment could be of most assistance to its grantees during the compliance period. In June, the proposed regulations were mailed to 8,000 arts organizations for comment. This was done to alert them to their new responsibilities for nondiscrimination of the handicapped, as well as to permit them ample opportunity to respond to the draft regulations. The Endowment's final regulations will reflect their comments.

Recognizing that the 504 issue is primarily one of communicating grantee's responsibilities and how they can comply,. the Endowment has initiated a technical assistance program which was endorsed by the National Council on the Arts at its December meeting. The elements of this technical assistance are:

1. Printed technical assistance brochures will be mailed to Endowment grantees and arts organizations one month prior to the issuance of the Endowment's final 504 regulations. One brochure will be directed to visual arts organizations, the other brochure will be directed to performing arts organizations. These materials will contain practical information on how to plan for and implement compliance, visual illustrations of solutions to common architectural and program barriers, and other pertinent resource information.

2. Training seminars will be conducted by the Endowment for a) Endowment Regional Representatives; b) State Arts Agency Directors and staff; and c) art service organization directors and staff.

These seminars will be held in January and February 1979.

3. Slide shows for each of the major art discipline areas will be prepared for use by arts organizations. These slide shows will be accompanied by a tape cassette and will visually illustrate compliance planning and implementation.

4. The Endowment will make every effort to make presentations to all the annual meetings of art service organizations to communicate the substance of the regulations and how to comply.

5. The Endowment will be prepared to give telephone ("hot line") assistance to individual inquiries.

6. Materials from the National Arts and Handicapped Information Service such as information on "Technical Assistance" and "Funding Sources" will be updated. In fact, the "Technical Assistance" materials have already been updated and are available. The "Funding Sources" materials will be updated shortly.

In addition, the National Council on the Arts has set aside $200,000 to encourage arts organizations to research and implement new ways of making their programs accessible to physically, sensory and mentally impaired individuals. The first grant to be awarded for an Accessible Arts Model Project is to the Buffalo Philharmonic Orchestra to experiment with ways of amplifying its music to accommodate hearing impaired audiences. The purpose of these demonstration projects is to experiment with new ways of making existing Endowment supported programs available to the handicapped. The findings can, in turn, be shared with other grantees. I believe the results of these Accessible Arts Model Projects not only will be very exciting, but will also have direct application to other fields, such as education.

I trust this information is useful to you. If you have any questions concerning the Endowment's initiatives for ensuring that the arts are accessible to the handicapped, please do not hesitate to contact me.

Sincerely,

LIVINGSTON L. BIDDLE, Jr.,
Chairman.●

ROBERT G. VIEHMAN: A SPECIAL KIND OF VOLUNTEER

● Mr. EAGLETON. Mr. President, we read and hear so much these days about the so-called "me generation," it is refreshing to hear about those Americans who are dedicated to helping others. One such person is Robert G. Viehman, of St. Louis, Mo., who—along with his wife and 12-year-old son—spent 9 weeks last year in Thailand helping the Bank of Agriculture and Agricultural Cooperatives of Bangkok streamline some of its credit and accounting procedures.

The Viehmans traveled to Thailand as part of a program sponsored by the Volunteer Development Corps, a private, nonprofit organization established in 1970 to provide short-term technical help to cooperatives in the developing countries. Mr. Viehman was selected, because of his expertise in the field of farm credit. Mr. Viehman is the coauthor of the widely used accounting manual now in use throughout the nationwide farm credit system.

While in Thailand, Mr. Viehman introduced several new systems to the 58 branch banks of the Bank for Agriculture and Agricultural Cooperatives of Bangkok. Among these were a shortwave radio system which permits quicker and more efficient communications between the branches, and an electronic data processing system which greatly improved the efficiency of the collection of statistical data within the bank.

Mr. President, I know that the Viehman family found this a rewarding and fulfilling experience and that they made many fine friends during the 9 weeks they spent in Thailand. I know, too, that the bank officials in Bangkok are grateful for the invaluable assistance Mr. Viehman provided them. I think it is a tribute to the Viehman family that they were willing to take on this volunteer project and give so generously of their time and energies. The world is a better place for people like the Viehmans, who are so willing to reach out to others.

Mr. President, Mr. Viehman prepared two detailed reports of his accomplishments in Thailand, and I ask that they be printed in the RECORD.

The material follows:

OCTOBER 9, 1978.

DEAR MR. CHAMLONG: Since my arrival in Thailand four weeks ago, I have been privileged to visit 2 branch banks and 2 district field offices. With the able assistance of Sompop and Prim, I have observed the operation and conversed at great length with management and staff of these offices. I have learned much. Here at headquarters I have held lengthy conferences with department heads of Planning, Budgeting, Working System Development, Accounting and their Staff personnel and also EDP personnel.

The following abbreviated outline of topics is set forth, in my opinion, in the order of importance and expediency on which I will further expound in our conversation today:

A. BRANCH BANKS

1. Improve service to farmer patron. Do required recording and posting work after all farmers have departed the bank for the day.

2. Improve and develop the member relations between farmer and branch and district field office.

3. Develop a "work team" operation which will permit the branch bank to meet unusually heavy activity; e.g., when a very large number of farmers are requesting advances of funds on their loans, the extra help can be shifted from their regular routine duties to assist in processing the farmers through expeditiously.

4. Consolidate receipt records wherever possible; e.g., combine the interest receipt with loan payment receipt, etc.

5. Adopt a numerical control number on the daily activity records; i.e., deposits, withdrawals, loan advances and repayments.

6. Improve the security in the cashier's department by having constructed a cage or screening around the cashier's desk area.

7. In branches with exceptionally large number of patron loans, the use of a bookkeeping posting machine(s) could handle all the daily activities of both the banking and loan departments.

8. Report only the daily changes that occur in the trial balance accounts. The headquarters bank could update preparing new daily trial balance from these changes.

9. If short wave radio is adopted, the recording on cassette tape would be made only on the trial balance accounts that have had activity that day.

10. If a branch bank has more farmers than it can process through before noon on the average day, consideration should be given to establishing a sub-branch bank.

11. A team composed of manager, assistant manager, credit manager and chief accountant collaborate to ascertain their branch bank's reserve for bad debts, using the new reserve for bad debts form but not using the headquarters suggested percentages.

B. AUDIT OF FIELD BRANCHES

1. The role of auditor and/or credit reviewer be broadened in scope to encompass:
(a) Personnel evaluation.
(b) Security evaluation.
(c) Adequacy of branch's accounting system.
(d) Work flow and processing evaluation.
(e) Effectiveness of new innovations recommended or adopted by the branch bank.
(f) Credit quality.
(g) Adequacy of the branch's "reserve for bad debts" estimations.

2. Recommend that both the auditor and the credit reviewer assign a "scoring rate" to each of the branch banks and each of the branch bank's district field offices both as to accounting and/or credit.

C. BAAC HEADQUARTER BANK

1. Radio communications center be established to receive from and to transmit to the branch banks daily:
(a) Accounting date.
(b) Bank balances information.
(c) Any and all other necessary types of communication.

2. A Uniform chart of accounts be adopted by headquarter bank and all the branch banks. The uniform chart of accounts be assigned numerical identification numbers (account numbers) which can readily be adaptable to hand posted record keeping, machine accounting or EDP.

3. The daily short wave radio transmissions received from the branch banks on the daily accounting activities be recorded on cassette tape as well as posted on ledger sheet by the receiving operator. The cassette tape and hand posted record can be passed to accounting department for an update of the branch's trial balance accounts.

4. A pilot program be adopted in conjunction with the university wherein a program for EDP is tested for the compiling of trial balance account information.

5. Headquarter bank compile and evaluate the 58 branch banks' "reserve for bad debts" calculations to produce a consolidated report. This would be a once a year project. The adjustment—plus or minus—would be amortized over 12 months.

6. A top management study team composed of a selected representative from each of the four major departments would evaluate the confidential auditor/credit examiner report and condense said report for top management's evaluation. They will also recommend any new innovations in use by the audited branch which, in their opinion, should and/or could be adopted at all branches. Their recommendation, if approved and endorsed by top management, would become an order that would be carried out by the "regional training teams", who will see that the branches in their regions are trained and the change put into practice.

Respectfully submitted,

BOB VIEHMAN.

OCTOBER 27, 1978.

MR. CHAMLONG: As my last working day at the Bank of Agriculture and Agriculture Cooperatives, October 31, draws near, I would like to discuss with you the many new programs from the October 9th outline that are presently in process of implementation by your fine, capable staff.

For discussion purposes, the topics or programs in process are, for reference, indexed to conform with my outline of October 9.

BRANCH BANKS

Item No. 3: Develop a "work team" operation which will permit the branch bank to meet unusually heavy activity. E.g., when a very large number of farmers are requesting advances (or making payments) of funds on their loans, the extra help can be shifted from their regular routine duties to assist in processing the farmers through expeditiously.

(a) The concept of a "work team" has been fully developed and written up with flow charts and operating procedures by Mr. Sompop Panprapakorn of the Working Systems Development Division. Mr. Sompop's report now awaits upper management's review and concurrence before implementation. Present plans are that within the week personnel from the BAAC will go to Chieng Mai; and,

with the branch bank management's assistance, the "team" will be trained. This team will be utilized in the daily ongoing operation of that branch bank. It is also anticipated that the "work team" concept will be presented and thoroughly explained to all the chief accountants during their meeting at Chieng Mai. A copy of the work flow chart and operating procedures can be given to each chief accountant; and they, as a group, can witness the "work team" in action. The chief accountants, having seen the "team" in action, will be able to envision a like team at work in their own branch banks.

(b) In all probability, there are many work areas in both the BAAC and branch banks where a sporadic, unusually heavy work activity occurs and temporary additional help can be effectively utilized. The "work team" can be a satisfactory solution to this type of problem.

(c) Most clerical employees who are engaged in routine work will usually welcome a temporary change in their regular work routine. Also, being proficient in an additional area of the bank's operation makes the individual a more valued employee.

Item No. 8: Report only the daily changes that occur in the trial balance accounts. The headquarters bank could update and prepare a new daily trial balance from these changes.

(a) The operational procedures and new trial balance forms are presently being compiled by Mr. Sunan Sakulkarn, Mrs. Ngaokae and their staff. The new procedures will be thoroughly explained to the operational staffs of both the branch bank and BAAC. When they are familiar with both the operation and the routine, the change will be put into effect.

(b) The information in Item No. 8 (a) will be demonstrated at the Chieng Mai chief accountants meeting. The procedures and operating instructions, together with the new accounting forms, will be given to each chief accountant at this meeting.

(c) With the adaptation of the new accounting forms and the simplification in preparing these forms, together with a reduction in the number of items reported to the BAAC, a savings in time for the accounting department at the branch bank should be effected.

Item No. 9: If short wave radio is adopted, the recording on cassette tape would be made by the BAAC on the trial balance accounts of the branch banks that have had activity that day.

(a) Preparations are presently being made by the BAAC to demonstrate, at the chief accountants meeting in Chieng Mai, an actual transmission of accounting data from the branch bank to the BAAC accounting department using the high frequency solid state broad band radio.

(b) Future considerations should be given to the use of a cassette recording and transmission device; i.e., a small dictating machine that could be used to record the daily trial balance changes in data and replayed aloud into the radio when transmitting daily to the BAAC accounting department.

This cassette, so recorded, could be kept for short period (possibly two weeks) as a proof of transmission to the BAAC. Later this tape could be reused again and again. Daily the branch bank's accounting department could use the cassette to record information as soon as they have completed their daily trial balance work; and it would be ready, awaiting the assigned time to transmit to the BAAC accounting department.

(c) Further use of the radio receiver/transmitter would be for communications of a general type between management personnel of the branch bank to the BAAC and/or other branch banks in the system. There are certain modifications to the radio/transmitter that can be added where a conversation between two people can be a "private conversation".

The useful life of the radio equipment is conservatively estimated to be 15 years. The cost of the radio equipment should be fully recovered in 6 to 7 years by the savings realized in long distance telephone and telegraph charges.

(d) A future consideration in the use of radio receiver/transmitter would be the installation of a similar device, of a less powerful type, in the district field offices and sub-branch banks.

(e) If at some future time management desires to have all the credit activity occurring that day transmitted and recorded in the BAAC's EDP computer, the use of a cassette tape recording of said data could be transmitted from the branch bank to the BAAC and re-recorded on their cassette recorder for entry into the EDP computer for updating of individual borrower's loan accounts.

BAAC HEADQUARTER BANK

Item No. 1: Radio communication center be established to receive from and to transmit to the branch banks daily:

a. Accounting data.

b. Bank balances information.

c. Any and all other necessary types of communication.

(a) Assuming that the "pilot program" with the Chieng Mai branch bank proves successful, the BAAC's departmental management staff will collaborate in preparing a report for top management's evaluation recommending establishing a "Communication Center". Their report will contain recommendations in the number and kind of radio receiver/transmitters that would be in use at headquarters. Also, in detail, the uses that can be made of said equipment and how the bank's staff will operate this equipment.

(b) The transmission of accounting data from the branch banks to BAAC, reporting only the daily changes that have occurred in the trial balance accounts, will be recorded by the operator at headquarters bank on new trial balance forms as the transmission is being received. Also, this same transmission will be recorded on a cassette tape which will be used as a further check in the accuracy of the clerk's hand recorded data. This tape will be kept for a reasonable period for proof of the prepared form, then reused again. Daily data just received from the branch bank will be processed through the BAAC's accounting department, where the new updated trial balance will be prepared on the new forms (presently being developed) and dispatched to management personnel. A machine copy of the daily changes in the branch banks' trial balance accounts will be sent to the EDP key punch department where IBM cards will be made and sent to the computer for an updating of the accounting data and records.

(c) The branch banks will report to the BAAC their bank balance information. Said information, upon being received, will be promptly given to the appropriate management personnel.

(d) The operation of the "Communication Center", a service to all management in the BAAC system, should, in my opinion, not be the direct responsibility of any one department, but should be in the "general services" activity.

(e) The "Communication Center" will make arrangements for the personal radio calls of management staff at BAAC to the management staff of the branch banks, and also transfer of personal radio calls from the management staff of the branch banks to the management staff at BAAC. All of the conversations in the personal calls will not be overheard by the radio operators or other radios.

(f) If management should, at some future time, desire to have all the credit information on the individual borrowers' accounts kept on the computer and updated daily, this could be easily accomplished through the use of your "computer center". Ref. Item #9 (e).

(g) For future considerations, there are presently on the market many devices that can be utilized with your radio receiver/transmitter. These devices can give further capabilities to this equipment; e.g., the equipment can be in use 24 hours a day. It can receive data, on tape, automatically from branch banks which could be transmitting automatically during the night information that had been pre-recorded on cassette tape.

Item No. 2: A uniform chart of accounts to be adopted by headquarter bank and all the branch banks. The uniform chart of accounts be assigned numerical identification numbers (account numbers) which can readily be adaptable to hand posted record keeping, machine accounting or EDP.

(a) The assigning of account numbers to the general ledger accounts and their related subsidiary accounts has been accomplished by Mr. Sunan Sakulkarn, Mrs. Ngaokae Sapitakm and the able assistance of their staff member, Miss Premchitra Khadee.

The assigning of identification numbers to the general ledger accounts of the BAAC's and branch banks' accounts will enable all of the system's accounting records to be recorded in identically the same manner whether the records are on a hand posted system, a machine accounting system or an EDP computerized system.

(b) The management of the accounting departments will have a report prepared for the chief accountants meeting in Chieng Mai, which gives full explanation to account numbering system and how it is to be used in their branch banks. An explanation will be given as to "why" the BAAC has adopted the account number method of identifying the general ledger accounts. Explanation will also be given to why certain accounting forms have been slightly modified, together with a demonstration of the proper use of these new forms.

Item No. 4: A "pilot program" be adopted in conjunction with the university wherein a program for EDP is tested for the compiling of trial balance account information.

(a) Since our conference of October 9, BAAC employees, Mrs. Somnung Fongsarun, Miss Premchitra Khadee and I have conferred with Miss Natchavee Kunaporn, a systems analyst at Chulalongkorn University, to ascertain the capabilities and the availability of the university's computer to accept the BAAC's entire chart of accounts together with the chart of accounts of all the 58 or more branch banks, and the daily update of each account which has an activity. Also to prepare, if requested, a consolidated (all branches) trial balance.

We were told that this could be accomplished for a very nominal costs; and also that the program had already been compiled and tested by Mrs. Somnung Fongsarun.

(b) We further explored future uses that the BAAC may choose to make of the computer; e.g., could the university's computer accept, store and update information on over a million individual borrowers' loan accounts. We were assured that with the capacity of their IBM #370 computer this would pose no problem.

(c) At the conclusion of our conference at the university we asked that with the entire accounting chart of accounts and their updated daily changes, could the computer be programmed to compile accumulation of data on each account so that meaningful management reports could be prepared on a monthly and yearly basis. We were advised that the computer could be so programmed. We further asked if programs of a similar nature could be made from the million individual loan accounts where computerized. Again, the answer was in the affirmative.

(d) A week after our conference at the university, a conference here at BAAC was

conducted by a representative from the university's computer department to familiarize the BAAC's staff in the accounting and planning departments with the process and capabilities of the computer.

(e) At the present time, Mrs. Fongsarun is working on a program for the payroll department wherein certain statistical information can be compiled.

(f) It would be my personal recommendation that should the BAAC decide to embark upon any EDP program the EDP program be made a tool of the planning department to gather statistical data for reports to be used in planning, forecasting and budgeting. In conclusion, I would like to make the following recommendations:

1. When a pilot test program proves successful that it be put into operation for the entire BAAC system as quickly as possible.

2. If management should decide to embark upon an extensive EDP program, beyond the chart of accounts for the trial balance records, they contact the Washington offices of VDC, ACDI or AID to make arrangements for a BAAC management staff member to visit, say for 2 weeks, with a district Farm Credit Bank (hopefully St. Louis) to observe the computer programs in operation and to understand the capabilities of the computer.

3. When the numbered general ledger accounts have been put into effect and are operating satisfactorily, consideration should be given to compiling a complete accounting manual wherein each of the general ledger accounts in use is fully described. I have left with the accounting department a copy of my bank's old accounting manual, and have written to my superior to mail a copy of the new Farm Credit Banks accounting manual to BAAC. These manuals can be used as guides when preparing a BAAC accounting manual.

The 52 days that we have spent in Thailand will always remain in our memories as some of our most pleasant days on earth. We have come to love Thailand, its wonderful people and customs.

I do so regret that I cannot be here to witness the many new programs that the BAAC management and its capable staff will be putting into effect in the foreseeable future.

Respectfully submitted,

BOB VIEHMAN.●

LITHUANIAN INDEPENDENCE DAY

● Mr. DOLE. Mr. President, on February 16, 1918, the Lithuanian people declared themselves free of the domination of czarist Russia, ending centuries of tyranny and persecution. Today, 61 years later, this event is being celebrated by Lithuanians throughout the world.

The people of Lithuania, however, are once again laboring under the yoke of Russian tyranny. While giving lipservice to the concept of human rights, the Soviet Union has failed to follow the principles set forth in the Helsinki Agreements. Instead, it has repeatedly violated the individual rights of Lithuanian citizens, and at the same time has denied the rights of the Baltic peoples to self-determination.

While there are many outstanding examples of those who have stood up to this oppressive Soviet rule, I would like to single out two Lithuanians for their exceptional bravery.

Viktoras Petkus, who has dedicated his life to the struggle for Lithuanian self-determination, has been once again sent to jail. His crime?—Mr. Petkus was part of a committee attempting to monitor Soviet compliance with the Helsinki Agreements. Mr. Petkus now languishes in the same jail as fellow political prisoner Anatoly Shcharansky.

BALYS GAYAUSKAS

Balys Gayauskas, who has already spent 25 years in jail for his activities in support of a free Lithuania, was arrested and sentenced to 10 years in jail, followed by 5 years of exile. While in prison, Mr. Gayauskas has given further evidence of his tremendous courage by joining the Helsinki Monitoring Group.

LITHUANIA'S STRUGGLE CONTINUES

With brave citizens such as Mr. Petkus and Mr. Gayauskas leading the way, the Lithuanian people continue to struggle for liberation from Soviet tyranny. In December a committee was formed to defend the rights of Catholic believers, and the publication of underground literature continues to flourish in Lithuania.

CALL TO THE UNITED STATES

We in the United States would be remiss if we did not do what we can to aid the people of Lithuania in their quest for freedom. In order for the underground press in Lithuania to remain effective we must insure that they have access to information from Radio Free Europe, Radio Liberty, and Voice of America.

HOPE FOR THE FUTURE

I remain convinced that with the courage and determination of the Lithuanian people their freedom is inevitable. A pursuit as vigorous and unyielding as their quest for self-determination and religious and political freedom cannot be thwarted, for the power of freedom is irresistible.●

OMB REPORTS ON COMPUTERS, TELECOMMUNICATIONS

● Mr. RIBICOFF. Mr. President, the Office of Management and Budget, which sets policy and fiscal priorities for computer operations in Federal programs, issued a summary of resources in the President's fiscal year 1980 budget for general purpose data processing and telecommunications. I ask that the summary be printed in the RECORD.

The summary follows:

RESOURCES FOR DATA PROCESSING AND TELECOMMUNICATIONS IN THE FY 80 BUDGET

This document provides a summary of resources included in the President's FY 1980 Budget for general purpose data processing and telecommunications.

This summary is being issued in order to identify the extent to which the Executive Branch of the United States Government is taking advantage of the opportunities afforded by data processing and communications technology to provide better services to the American public, expand the capacity and productivity of the Federal workforce without increasing its size, improve the management of Federal agencies and programs, reduce fraud and waste in Federal programs and reduce the cost of government.

The figures presented in Table 1 are preliminary estimates of the resources devoted to general purpose data processing and telecommunications. Some minor adjustments in these figures can be expected as agencies continue to reflect the effects of program budget decisions. A more complete analysis of data processing and telecommunication resources included in the budget and trends in the distribution of these resources will be published in March 1979.

GENERAL PURPOSE DATA PROCESSING RESOURCES

Obligations for general purpose data processing activities of executive agencies are expected to increase $651.4 million (15.8%) from FY 1978 to FY 1979 and $492.4 million (10.3%) from FY 1979 to FY 1980.

The 15.8% and 10.3% growth rates for general purpose data processing activities exceed the 9.4% and 7.7% growth rates for the Federal Budget during these same years.

During the two year period covering FY 1979 and FY 1980 the largest absolute growth in these activities is expected in:

Department of Defense, $666.7 million (34.4%).

Department of HEW, $99.0 million (23.0%).

Department of Energy, $74.6 million (26.9%).

Department of the Treasury, $65.3 million (12.5%).

In addition, significant relative growth is also expected in:

Department of State, 69.4% ($8.6 million).

Department of HUD, 54.3% ($10.2 million).

Department of Transportation, 41.9% ($29.1 million).

General purpose data processing resources included in these figures are defined in Section 43.2 of OMB Circular No. A–11. While they include most of the resources for general purpose data processing activities of Federal executive agencies, they do not include Federal data processing activities funded by Federal grants, classified systems or computers which are an integral part of weapons, space or similar systems.

GENERAL PURPOSE RESOURCES TELECOMMUNICATIONS

The figures for general purpose telecommunications provided in Table 1 represent a first step toward identifying all Federal executive agency expenditures for telecommunications.

The estimates compiled this year do not include resources for telecommunications activities related to certain command and control applications, tactical operations, intelligence operations, radar or navigation systems, operations outside the U.S. and certain other special applications. A more complete definition of resources included in this summary can be found in Section 43.3 of OMB Circular No. A–11.

This year's experience will be used as a basis for refining and expanding telecommunications resource reporting during the next year.

EFFECTIVE USE OF TECHNOLOGY

Table 1 identifies the magnitude of Executive Branch resources devoted to general purpose data processing and telecommunications. A separate document entitled "Federal Government Use of Data Processing and Telecommunications" has been prepared which provides specific examples of the benefits expected from the effective use of technology. Federal agencies are using these resources to:

Determine eligibility for benefit programs in a more cost effective and efficient manner.

Identify and reduce fraud in Federal benefit programs.

Save lives by speeding up emergency rescue operations in time of disaster.

Advance scientific knowledge.

Reduce energy consumption.

ACQUISITION PLANS

A compilation of Federal executive agency plans for major acquisitions of general purpose computer and telecommunication systems, facilities and related services during FY 1979 through FY 1984 will be published before the end of January 1979.

TABLE 1.—PRELIMINARY ESTIMATES OF DATA PROCESSING AND TELECOMMUNICATION RESOURCES IN THE FISCAL YEAR 1980 BUDGET

[In millions of dollars; fiscal years]

	General purpose data processing			General purpose telecommunications		
	1978	1979 (estimate)	1980 (estimate)	1978	1979 (estimate)	1980 (estimate)
Department of Agriculture	94.3	111.5	118.3	36.1	41.1	48.0
Department of Commerce	107.7	125.8	140.4	24.9	30.0	40.1
Department of Defense	1,936.0	2,278.6	2,602.7	474.4	495.5	503.2
Department of Energy	277.0	306.9	351.6	56.3	71.2	79.0
Department of HEW	430.0	492.2	529.0	162.7	188.4	207.7
Department of HUD	18.8	23.8	29.0	12.5	16.4	17.6
Department of the Interior	52.0	63.1	67.9	23.8	26.3	31.3
Department of Justice	39.9	47.2	50.1	44.8	52.9	50.6
Department of Labor	44.9	56.6	59.5	2.5	2.3	2.8
Department of State	12.4	18.6	12.0	5.3	6.3	7.1
Department of Transportation	69.4	85.5	98.5	29.6	30.4	34.3
Department of the Treasury	520.9	557.8	586.2	73.3	73.3	84.5
Environmental Protection Agency	35.2	38.5	40.9	9.2	9.8	10.6
General Services Administration	60.7	53.5	55.2	11.1	14.2	14.0
National Aeronautics and Space Administration	184.9	202.7	210.2	24.9	27.2	27.8
Veterans' Administration	80.5	113.4	74.9	62.9	83.0	74.9
Corps of Engineers	29.1	39.3	40.6	7.6	8.4	8.8
National Science Foundation	14.2	17.4	17.9	.1	.2	.2
Office of Personnel Management	12.5	11.9	12.0	4.6	4.7	3.9
Other agencies	95.9	123.4	154.2	16.5	20.5	21.9
Total	4,116.3	4,767.7	5,260.1	1,082.6	1,201.8	1,268.3

TRIBUTE TO THADDEUS KOSCIUSZKO

● Mr. DOMENICI. Mr. President, on February 12, our Nation observed the birthday of Abraham Lincoln. The stature of President Lincoln and his contributions to our country are as giant as a mountain and their shadow covers our entire land. But these shadows, by their magnitude, often obscure other great and noble figures.

February 12, Mr. President, is also a day of observance for the deeds of Thaddeus Kosciuszko. A Polish soldier and statesman, he entered the American Continental Army as a volunteer. He distinguished himself in the battles of New York and Yorktown and out of respect for his heroic contribution to the American Revolution, Congress, by special act, bestowed on him the rights and privileges of American citizenship and the rank of brigadier general.

His dedication and sacrifice in helping to found this great Nation should never be forgotten. Let us here in the Congress, and in the Nation, reflect and remember his deeds, his ancestry, and the role they have played in our Nation's birth.●

NOTED HISTORIAN ARTHUR BESTOR AGREES PRESIDENT CARTER USURPS LEGISLATIVE POWER BY BREAKING TAIWAN TREATY

● Mr. GOLDWATER. Mr. President, I am delighted to report that I have just received a letter from Prof. Arthur Bestor, one of the country's preeminent historians, who writes that he is "in complete agreement" with the position taken in my lawsuit against President Carter.

In referring to the President's attempted abrogation of the defense treaty with Taiwan without first obtaining legislative approval, Professor Bestor says:

I am happy that you are raising the constitutional issue in so forthright and effective a way. The termination of the Mutual Defense Treaty by the President without obtaining the advice and consent of the Senate—indeed, in flagrant disregard of the "sense of the Congress" clause in the International Security Assistance Act of 1978 (which comes close to being what the Constitution describes as the "advice" of the Senate)—represents a usurpation of power of the most dangerous sort. Like you, I believe this precedent, unless counteracted and repudiated, would permit a President to cancel any commitment whatever of ours—to Britain or France, to NATO, to Israel—even, ironically, to the People's Republic of China, should we make a purportedly binding treaty with them.

Mr. President, none could put it more clearly or succinctly. I am especially impressed with the clear-cut conclusions of Professor Bestor since he is one of a handful of academicians who have reached the pinnacle of their profession. His article entitled, "The Separation of Powers in the Domain of Foreign Affairs," in the Seaton Hall Law Review in 1974, is widely recognized as a landmark work on the original intent of the Framers based on an exhaustive review of contemporary 18th century material.

It might be mentioned that Who's Who in America notes Professor Bestor is a Democrat and Contemporary Author states that he was on a state board of directors of the American Civil Liberties Union. I give this information only to refute any false assumptions that Professor Eestor's conclusions might have been colored by his political philosophy.

Mr. President, in support of his conclusion that President Carter has usurped legislative power, Professor Bestor has generously prepared an historical note which discusses the issues fully. The paper is an important new contribution to literature on the subject of treaties and I ask that it be printed in the RECORD.

The material follows:

LOCATION OF THE CONSTITUTIONAL POWER TO ABROGATE OR TERMINATE A TREATY: THE ORIGINAL INTENT OF THE CONSTITUTION HISTORICALLY EXAMINED

(By Arthur Bestor)

The Constitution of the United States provides that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur."[1] It likewise decrees that "[t]his Constitution, and the laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land."[2]

On the 2nd of December 1954 the United States signed a Mutual Defense Treaty with the Republic of China (that is, with the government which claimed to be the legal sovereign of the whole of China but which in fact governed only the island of Taiwan and certain adjacent islands). On the 9th of February 1955 the Senate adopted by a vote of 65 yeas against 6 nays (with 25 Senators not voting) a resolution in customary form reading: "*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of . . . the Mutual Defense Treaty between the United States . . . and the Republic of China, signed at Washington on December 2, 1954."[3] On the 3rd of March 1955 ratifications were exchanged at Taipei and the treaty immediately entered into force. On the 1st of April 1955 the President proclaimed the treaty as part of the law of the land.

The first paragraph of the fifth article of the treaty declared: "Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes." The tenth and final article read as follows: "This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party."[4]

The International Security Assistance Act of 1978, which became law with the President's signature on the 26th of September 1978, referred to the twenty-four years of faithful performance by the Republic of China of its obligations under the treaty, and went on to make the following declaration: "It is the sense of the Congress that there should be prior consultation between the Congress and the executive branch on any proposed policy changes affecting the continuation in force of the Mutual Defense Treaty of 1954."[5]

Somewhat less than twelve weeks later, on the 15th of December 1978, President Jimmy Carter read to the nation a joint communiqué announcing the establishment of diplomatic relations between the United States and the People's Republic of China (often referred to as "mainland" China), recognizing the latter as "the sole legal Government of China," and announcing that the United States "acknowledges the Chinese position that there is but one China and Taiwan is part of China."[6] A simultaneous official statement was more specific: "On . . . January 1, 1979, the United States . . . will notify Taiwan that it is terminating diplomatic relations and that the Mutual Defense Treaty between the United States and the Republic of China is being terminated in accordance with the provisions of the Treaty."[7]

The President had not received, nor did he request, the formal advice and consent of the Senate to the termination of the Mutual Defense Treaty of 1954 with the Republic of China. Moreover, he had not received, nor did he request, a joint resolution by both houses of Congress authorizing or approving such termination. The constitutionality of the President's action has been challenged in the courts in a suit filed on the 22nd of Decem-

Footnotes at end of article.

ber 1958 by Senator Barry Goldwater and other members of the legislative branch.

The present paper will address the constitutional issues historically. An attempt will be made to ascertain, as precisely as direct and indirect evidence permits, the views of the framers of the Constitution and their contemporaries regarding the location within the constitutional system of a power to abrogate or terminate treaties previously made by the President by and with the advice and consent of two-thirds of the Senate. A particular aim will be to determine whether the procedure followed in terminating the above-mentioned Mutual Defense Treaty is consistent with the framers' intentions respecting the making of crucial decisions in the realm of foreign affairs.

Constitutional questions alone will be discussed herein. No judgment will be expressed on the wisdom of the original Mutual Defense Treaty, on the diplomatic or political justification for terminating it, on the necessity of bowing to the wishes of the People's Republic of China in the matter in order to achieve normalization, or on the danger of forfeiting the confidence of other of our allies in the reliability of American commitments to their defense.

ACTUAL PROVISIONS OF THE WRITTEN CONSTITUTION

The power to abrogate or terminate a treaty that has been completed and put into effect did not figure in the discussions of the Federal Constitutional Convention of 1787 or in the state ratifying conventions that followed. This can hardly be considered remarkable in view of the fact that the framers neither discussed nor provided for other comparable procedures—notably the repeal of a statute once enacted. The principal concern of the members of these conventions was the proper allocation of the various *positive* powers of government. The commonsense view—which the framers apparently took for granted save when they specified an exception—is that the power to rescind an action normally belongs to the same authority that is empowered to take the action in the first place. The framers recognized, however, that this principle could not be applied without qualification to all situations.[8]

Speaking generally, three important areas exist wherein it may become constitutionally important to determine who possesses the power to negate or reverse or rescind a particular exercise of some power granted in positive terms only in the Constitution. The first such area comprises alterations in the Constitution itself, including the elimination of existing provisions. The second is the repeal or abrogation of one of the two other sorts of measures that make up the supreme law of the land, namely federal statutes and treates. The third is the removal from office of an elected or appointed official. In the first and third of these areas, the Constitution makes specific provision (in certain cases but not in all) for the repeal of a measure or the dismissal of an official by an authority different from the one that was responsible for the original enactment or appointment.

These various exceptions to the commonsense rule that links together the power of enactment and the power of repeal must be examined carefully if one is to reach a valid conclusion about the intent of the framers. In particular the instances in which the Constitution empowers a body with more inclusive authority to annul the action of one possessing lesser scope, must be carefully distinguished from those other instances (if any) in which the joint action of two authorities is made reversible by only one of the two.

ALTERATION OF THE CONSTITUTION ITSELF

Future changes in the Constitution were provided for in Article V, which prescribed in detail several procedures for amending the instrument. Recognizing that amendments might be used to subtract from as well as to add to the document, the framers introduced one permanent restriction on this negative use of the amending process. No state, without its consent, was to "be deprived of its equal suffrage in the Senate."[9] With this exception (plus a temporary one relating to the importation of slaves[10]), the Constitution tacitly indicated that the repeal of one of its provisions was to be accomplished in prescisely the same way as the addition to it of a new provision.

The framers, however, left completely unsettled the gravest of all the possible questions involving constitutional change. Article VII prescribed the method by which the Constitution was to be established. Could the Union be dissolved by applying the procedure in reverse? And if so, could one state, or a minority of all the states, accomplish this? Or would three fourths of the states have to approve, as with amendments? Or was the Union to be perpetual, as it had been described as being in the antecedent Articles of Confederation, now superseded by the "more perfect Union" of the Constitution?[11] These were the constitutional questions posed by secession in 1860–61, and settled—definitively, it is thought—by arms and blood.

The framers also left unsettled a relatively minor question in the same area of constitutional alteration. Can a state which has voted to ratify a proposed constitutional amendment rescind its favorable vote while the amendment is still pending? This question, unanswered by the framers, may have to receive a definitive answer in connection with the pending Equal Rights Amendment.

REPEAL OF STATUTES

So far as the repeal of a statute is concerned, there seems never to have been the slightest doubt that the Constitution (although silent on the point) requires action of precisely the same kind, by precisely the same authorities, for either the enactment or the repeal of a law. In other words, an Act of Congress can be repealed only by another Act of Congress. No authority to repeal is vested in the President alone, or in the two houses of Congress apart from him (except through the special procedure involved in overriding a presidential veto), or in one of the houses singly. It is appropriate to say that this principle has been firmly embedded in both English and American constitutionalism since, at the very latest, the so-called Glorious Revolution of 1688/9. The English Bill of Rights of 1689 declared illegal "the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of parliament." With suitable alteration of terms, this was carried over into the very first American bill of rights, prefixed to the Virginia Constitution of 1776, which condemned "all power of suspending laws, or the execution of laws, by any authority without consent of the representatives of the people." Other state constitutions followed suit, and in 1788 and 1789 two ratifying conventions urged the inclusion of a similar article in the new federal Constitution.[12] The proposal did not survive the subsequent winnowing process, presumably because the principle seemed too obvious to need reiteration. In any case, if long-established tradition forbade so much as the suspension of laws without full legislative permission, then a fortiori it forbade the repeal of laws by executive authority alone.

There is another point to consider, however. In the United States a duly enacted law can be voided by a body completely different from the one that enacted it. The Supreme Court can do so. The theory here is that the court is faced with a conflict of laws (namely, a conflict between the statute and the higher laws of the Constitution), and that it is enforcing the latter instead of the former not because the court itself is superior in authority to the legislature, but because the constitutional provision emanates from an authority which is superior to the legislature, namely the people of the United States, who have spoken through the conventions that ratified the original document or subsequently amended it.[13]

Nothing whatever in the situations examined thus far suggests that the framers of the American Constitution intended to give the President power to undo by his own unaided authority something that had been done (and had been required to be done) only in concurrence with at least some part of the legislature. Only when an authority of higher or broader scope entered the picture could any enactment (of the types thus far discussed) be voided without the consent of all the authorities that had concurred in its making.

Unless clear evidence to the contrary can be offered, it is reasonable to suppose that the framers intended the same principle to apply to the abrogation of a treaty as to the repeal of a statute, both being parts of the supreme law of the land by constitutional definition. The principal argument to the effect that an exception was intended in the case of treaties is based upon an analogy drawn from a widely different constitutional area. The validity of this analogy must next be examined.

REMOVAL FROM OFFICE

The election or appointment of an individual to office bears little resemblance to either the ratification of a treaty or the enactment of a law. Each process, however, is capable of being reversed: officials can be dismissed, treaties abrogated, and statutes repealed. Though the Constitution says nothing about the procedure for repealing a statute or abrogating a treaty, it does say something about procedures (in the plural) for removal from office. These procedures, it must be pointed out, differ markedly according to the nature of the office held.

Members of the federal judiciary are nominated by the President and appointed by and with the advice and consent of the Senate (a simple majority being sufficient). The judges are, however, guaranteed tenure during good behavior, which means that they cannot be removed by those who jointly appointed them. The only method provided by the Constitution is impeachment, commencing with charges brought by the House of Representatives and concluding with trial by the Senate, the latter's members being "on oath or affirmation" and a two-thirds majority being required for conviction.[14] The President, though crucially involved in the appointing process, is completely excluded from the impeachment proceedings.

So far as elected officials are concerned, the framers of the federal Constitution never contemplated giving the electorate a power of recall, such as several states have provided in twentieth-century amendments to their constitutions. The power to remove is thereby separated, in this instance as in the other, from the power to appoint. Instead, the Constitution grants each of the houses of Congress the power to judge and punish its own members and, by two-thirds vote, to expel them.[15] The electorate (who chose the member in the first place) has only the power to deny him another term.

Only two members of the executive branch are elected, the President and the Vice-President, and neither is removable by the electors who chose him or by the wider electorate who chose the electors. As with judges, the only procedure for removal is impeachment.

With respect to the dismissal or removal of appointed officers of the federal government, the Constitution is completely silent, except that impeachment is possible for any of them, and except that military officers can be made dischargeable by court martial if Congress exercises its power "[t]o make Rules

Footnotes at end of article.

for the Government and Regulation of the land and the naval Forces." [16]

Aside from military officers, four different types of appointed officials are mentioned in the appointing clause of the Constitution, namely (i) "Ambassadors, other public Ministers and Consuls"; (ii) "Judges of the Supreme Court"; (iii) "other Officers of the United States"; and (iv) "inferior officers," whose appointments Congress is permitted to vest "in the President alone, in the Courts of Law, or in the Heads of Departments." [17] Except for the last group, all are to be appointed in accordance with the same procedure, nomination by the President and approval by a majority of the Senate. Obviously, however, it is impossible to suppose that the procedure for dismissal was intended to be the same in all cases. Judges were to be removed only by impeachment; if this were required in the case of all officials, then the latter would in effect enjoy life tenure. This was pointed out in the great debate on the removal power that took place in 1789 in the First Congress. James Madison was most emphatic in repudiating the idea that the Constitution was designed to "establish every officer of the Government on the firm tenure of good behavior." He continued: "If the constitution means this . . ., we must submit; but I should lament it as a fatal error interwoven in the system, and one that would ultimately prove its destruction." [18]

The lumping together of appointed officials of such disparate kinds as judges and subordinate executive officers was the result of a compromise reached in the closing days of the federal Convention of 1787. On the 6th of August, ten weeks and a half after the beginning of deliberations and only six weeks before adjournment, a so-called Committee of Detail reported the first formal draft of a full-fledged constitution, bringing together and elaborating ideas that had previously taken the form only of resolutions. In this draft two classes of appointed officials—namely, ambassadors and judges—were singled out, and their appointment vested in the Senate, with no participation by the President. On the other hand, the President alone, with no reference to either house of Congress, was empowered to "appoint officers in all cases not otherwise provided for by this Constitution." [19] The logical conclusion from this document is that the President was expected to control his subordinates by wielding the power to dismiss those whom he alone had appointed, but that he would not have any such power over judges (who could only be removed by impeachment) or over ambassadors, who were to be diplomatic representatives of the Senate, a body which possessed (at this stage of the Convention's proceedings) the exclusive power to make treaties.

The arrangement proposed by the Committee of Detail was not accepted as it stood by the Convention. After discussion the provisions in question were sent back to committee, and on the 4th of September a compromise was reported. It was adopted on the 7th, ten days before the Convention ended. The new provision still distinguished from one another (in words at least) the three previously-mentioned classes of officers: ambassadors, judges, and "all other Officers." But it provided the same appointing procedure for all, thereby giving the Senate a veto over officials appointed in the executive branch, and admitting the President to a share in the process of appointing ambassadors and judges by requiring nominations to come from him.[20]

The First Congress, as has already been noted, was obliged to deal with the question of removal, the Constitution having failed to provide an explicit answer save in the case of judges. The question came up in connection with a bill establishing a Department of Foreign Affairs, later renamed the Department of State. The principal debate was in the House of Representatives, where, on the 19th of May 1789, James Madison introduced a resolution proposing the establishment of a Department of Foreign Affairs, headed by a Secretary, "who shall be appointed by the President, by and with the advice and consent of the Senate; and to be removable by the President." [21] Objection was immediately made to the concluding phrase, and the argument against removal by the president alone was succinctly stated by Madison's fellow Virginian, Theodorick Bland:

"He thought it consistent with the nature of things, that the power which appointed should remove; and would not object to a declaration in the resolution . . . that the President shall remove from office, by and with the advice and consent of the Senate. He agreed that the removal by impeachment was a supplementary aid favorable to the people; but he was clearly of opinion, that the same power that appointed had, or ought to have, the power of removal." [22]

Madison defended his resolution as follows:

"I think it absolutely necessary that the President should have the power of removing from office; it will make him, in a peculiar manner responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects, to superintend their conduct, so as to check their excesses." [23]

At the end of the day the House voted "by a considerable majority, in favor of declaring the power of removal to be in the President." [24]

This did not end the matter, for the vote was in Committee of the Whole and by its own terms simply expressed "the opinion of this committee." The bill that was drafted in consequence was subjected to five full days of debate between the 16th and the 22nd of June 1789.[25] Speeches on both sides reiterated the arguments outlined in May, and need not be traced in detail here. In the end a compromise was reached by striking from the bill the explicit provision making the Secretary "removable by the President," but inserting a provision recognizing such a power by indirection.[26] According to the measure finally adopted (by a vote of 29 to 22), the chief clerk (described as an "Inferior officer") was to take charge of the department "whenever the . . . principal officer shall be removed from office by the President of the United States, or in any other case of vacancy." [27] The compromise meant that those who considered removal by the president alone to be unconstitutional were left free to contest any dismissal that might occur.

On the whole, therefore, the act of the 27th of July 1789 creating the Department of Foreign Affairs embodied Madison's interpretation of the Constitution as set forth on the 19th of May. In the meantime, however, on the 29th of June, Madison himself had proposed limiting the scope and applicability of the principle he had originally stated. The occasion was a bill to establish a Treasury Department, one of whose officers would be a Comptroller. The latter's duties, Madison argued, "are not purely of an executive nature." The officer would have the responsibility of "deciding upon the lawfulness and justice of the claims and accounts subsisting between the United States and particular citizens." This, continued Madison, "partakes strongly of the judicial character, and there may be strong reasons why an officer of this kind should not hold his office at the pleasure of the executive branch of the Government." [28] In the face of objections that he was "setting afloat the question which had already been carried," Madison withdrew his proposal.[29] Though the presidential power of removal continued to be challenged over the years,[30] it was only in 1935 in the Humphrey case that the Supreme Court upheld the challenge in any substantial way. The dismissed official, William E. Humphrey, had been a member of a quasi-legislative, quasi-judicial regulatory commission (the Federal Trade Commission), and the Court held that the commissioners were intended by Congress "to act in discharge of their duties independently of executive control," and were accordingly given fixed terms and made removable only "for cause." [31]

Madison's interpretation of the Constitution can thus be said to have been sustained. *The president can remove on his own authority an officer in the executive branch who has been appointed with the consent of the Senate, but this power* (according to the Supreme Court in the Humphrey case) *is "confined to purely executive officers."* [32] In other cases (so Madison had said apropos of the Comptroller), it is necessary "to consider the nature of [the] office." [33] To phrase the idea more comprehensively, it is necessary to consider the nature of the governmental activity involved.

This last consideration has an important bearing on the validity of the analogy that is sometimes drawn between the president's power to remove officials appointed by and with the advice and consent of a majority of the Senate, and an alleged power of his to abrogate treaties made by and with the advice and consent of two-thirds of the Senate. It is well to revert to the precise reason given by Madison for inferring from the Constitution a strictly limited presidential power of removal. On the 17th of June 1789, in the course of the House debate, he spoke as follows:

"I agree that if nothing more was said in the constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be great force in saying that the power of removal resulted by a natural implication from the power of appointing. . . . But there is another part of the constitution which inclines, in my judgment, to favor the construction I put upon it; the President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. Now, if the officer when once appointed is not to depend upon the President for his official existence, but upon a distinct body, (for where there are two negatives required, either can prevent the removal,) I confess I do not see how the President can take care that the laws be faithfully executed." [34]

There is a close analogy between the power to abrogate a treaty and the power to repeal a statute. It is difficult to imagine a genuine analogy between either of these powers and the power to dismiss an incompetent or corrupt official. The president's ability to take care that the laws be faithfully executed may well be said to depend on his possession of the latter power. But a power to change the law (whether established by statute or treaty) is something utterly different—a contradiction rather than a corollary of the responsibility for seeing to its faithful execution.

Indeed, if the analogy is to be appealed to at all, it is more convincing when applied the other way round, as an argument against a presidential removal power. It was so used by Roger Sherman of Connecticut in the debate in the First Congress:

"I consider it an established principle, that the power which appoints can also remove, unless there are express exceptions made. Now the power which appoints the judges cannot displace them, because there is a constitutional restriction in their favor. . . . It is a general principle in law, as well as reason, that there shall be the same authority to remove as to establish. It is so in legislation, where the several branches whose con-

Footnotes at end of article.

currence is necessary to pass a law, must concur in repealing it. Just so, I take it, to be in cases of appointment; and the President alone may remove when he alone appoints, as in the case of inferior offices to be established by law." [35]

Roger Sherman's argument did not prevail; the power to dismiss a purely executive officer was carefully distinguished from the power to repeal a law. This merely underlines the fact that the presidential removal power which the First Congress implicitly sanctioned was an exception to what was otherwise accepted as a general rule. To argue that it established a general rule of opposite character is to subvert logic itself. In interpreting the so-called "decision of 1789," one must also remember that the President's carefully circumscribed removal power does not derive directly from an explicit clause of the Constitution. It is simply an inference from that document, and an inference that a substantial and articulate minority in the First Congress considered unsound.[36]

Furthermore, the procedures for making treaties and for making appointments were by no means put on the same level by the clause that happened to deal with both. In the first place, two-thirds of the Senate must give advice and consent to a treaty, whereas a simple majority is sufficient to approve an appointment. In the second place, the president is given the exclusive power to make nominations to office, whereas in treaty-making the Constitution does not set him apart in this special way from those who advise and share responsibility with him. On both these counts, accordingly, the President's constitutional role, as compared with that of the Senate, is proportionately far less where treaties are in question than where appointments are involved.

FOOTNOTES

[1] U.S. Constitution, art. 2, sec. 2, cl. 2.
[2] *Ibid.*, art. 6, cl. 2.
[3] Senate, *Executive Journal*, vol. 97, part 1, pp. 136–137.
[4] Department of State, *United States Treaties and Other International Agreements*, vol. 6, part 1, 1955, pp. 433–438.
[5] Public Law 95–384, sec. 26(b); 92 Statutes at Large 730, at 746.
[6] *Weekly Compilation of Presidential Documents*, vol. 14, no. 50 (18 Dec. 1978), pp. 2264–2266, at 2264.
[7] *Ibid.*, p. 2266.
[8] Cf. the remark by Representative James Jackson (Georgia) in the First Congress: "He agreed with . . . the general principle, that the body who appointed ought to have the power of removal, as the body which enacts laws can repeal them; but if the power is deposited in any particular department by the constitution, it is out of the power of the House to alter it." *Annals of Congress*, 1st Cong., 1st Sess., column 389 (19 May 1789). NOTE. This compilation of debates in the first seventeen and a half congresses (1789–1824) is customarily cited (as above) by what is actually the wording on its half-title, *Annals of Congress*. Its regular title-page reads: *The Debates and Proceedings in the Congress of the United States*. And, to compound the confusion, the running-head on individual pages is *History of Congress*. The work was compiled from newspaper and other reports (the only contemporaneously published record of the early debates) and was issued in 42 volumes between 1834 and 1856. There were apparently different printings, varying slightly in pagination, which explains why there are discrepancies between citations in different historical works. The copy of vol. I utilized here is dated 1834; it ends at column 1322 in the middle of a sentence dealing with the debate of 18 Feb. 1790; and a 30-page index then follows.
[9] U.S. Constitution, art. 5, final proviso.
[10] *Ibid.*, next to last proviso.
[11] Cf. Lincoln's remark in his First Inaugural, 4 March 1961: "It is safe to assert that no government proper, ever had a provision in its organic law for its own termination." Abraham Lincoln, *Collected Works*, ed. Roy P. Basler, vol. IV (New Brunswick, 1953), pp. 262–271, at 264.
[12] Texts in Edward Dumbauld, *The Bill of Rights* (Norman, Okla., 1957), pp. 167, 171, 183, 199. The English Bill of Rights also declared illegal the royal claim to a power of "dispensing" with laws, but American draftsmen obviously felt that "suspending" covered everything.
[13] Classic statements are those of Alexander Hamilton in *The Federalist*, No. 78 (1788) [see the ed. of Clinton Rossiter (N.Y. 1961), pp. 464–472, esp. 466–469]; and Chief Justice John Marshall in Marbury *v.* Madison, 1 Cranch [5 U.S.] 137 (1803), at 176–180.
[14] U.S. Constitution, art. 1, secs. 2 and 3; art. 3, sec. 1.
[15] *Ibid.*, art. 1, sec. 5, cl. 2.
[16] *Ibid.*, art. 1, sec. 8, cl. 14 and 16.
[17] *Ibid.*, art. 2, sec. 2, cl. 2.
[18] *Annals of Congress*, 1st Cong., 1st Sess., col. 387 (19 May 1789).
[19] Report of the Committee of Detail, 6 Aug. 1787, art. 9, sec. 1, and art. 10, sec. 2; in Max Farrand, ed., *Records of the Federal Convention of 1787* (4 vols., New Haven, 1911–37), II, 183, 185.
[20] Report of the Committee of Eleven (Brearley, ch.), 4 Sept. 1787, in Farrand, II, 495; Journal, 7 Sept., *ibid.*, 533–534.
[21] *Annals of Congress*, 1st Cong., 1st Sess., col. 385 (19 May 1789).
[22] *Ibid.*, col. 389.
[23] *Ibid.*, col. 387.
[24] *Ibid.*, col. 399. The debate was in committee of the whole, and no roll-call was recorded.
[25] *Ibid.*, cols. 474–608 (16–19 and 22 June 1789).
[26] House of Representatives, Journal, vol. i (reprinted Washington, 1826), pp. 50–52 (22 June 1822). The House first voted, 30 to 18, to add the ambivalent phrase "whenever the said principal officer shall be removed from office by the President, . . . or in any other case of vacancy"; then voted, 31 to 19, to strike out the positive phrase "to be removable from office by the President." The meaning that both sides put upon the new language is made clear in the debate, *Annals of Congress*, 1st Cong., 1st Sess., cols. 598–599, (19 June), 600–608 (22 June).
[27] Act of 27 July 1789. chap. 4, sec. 2; 1 Statutes at Large 28, at 29. The bill passed the House on 24 June; the Senate on 20 July. *Annals of Congress*, 1st Cong., 1st Sess., cols. 51, 614.
[28] *Annals of Congress*, 1st Cong., 1st Sess., cols. 635–636 (29 June 1789)
[29] *Ibid.*, cols. 638–639.
[30] For example in the Post Office Act of 12 July 1836, chap. 179, sec. 6; 12 Statutes at Large 78, at 80, which provided that postmasters in the top three classes "shall be appointed and may be removed by the President by and with the advice and consent of the Senate." The Supreme Court held the provision unconstitutional in Myers *v.* U.S., 272 U.S. 52 (1926).
[31] Humphrey's Executor *v.* U.S., 295 U.S. 602, at 629 (1935).
[32] *Ibid.*, at 632.
[33] *Annals of Congress*, 1st Cong., *1st Sess.*, col. 635 (29 June 1789).
[34] *Ibid.*, col. 516 (17 June 1789). Theodore succinctly in the subsequent debate on the Treasury Department: "He . . . conceived that a majority of the House had decided that all officers concerned in executive business should depend upon the will of the President for their continuance in office; and with good reason, for they were the eyes and arms of the principal Magistrate, the instruments of execution." *Ibid.*, col. 637 (29 June 1789).
[35] *Ibid*, cols. 510–511 (17 June 1789). In a speech the next day Sherman challenged the other side to "produce an authority from law or history which proves, that where two branches are interested in the appointment, one of them has the power of removal." And he asked scornfully whether anyone believed that in matters of legislation, where "the concurrence of both branches is necessary to pass a law, a less authority can repeal it." *Ibid.*, col. 559 (18 June).
[36] U.S. Constitution, art. 2, sec. 2, cl. 2: "He shall have power, by and with the Advice and Consent of the Senate, to make Treaties, *provided two thirds of the Senators present concur;* and he shall *nominate*, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, . . . [etc.]." (Emphasis supplied.) ●

GOVERNMENT USES OF NEW TECHNOLOGY

● Mr. RIBICOFF. Mr. President, a report on how Government is making new uses of computer and telecommunications technology has been written by the Office of Management and Budget. I ask that the report be printed in the RECORD.

The report follows:

FEDERAL GOVERNMENT USE OF DATA PROCESSING AND TELECOMMUNICATIONS

INTRODUCTION

The Federal Government is the world's largest user of computers and telecommunications. Innovative use of this technology by Federal agencies has provided substantial benefit to the American taxpayer by:

Providing more, better and faster services to the public.

Expanding the capability and productivity of the Federal workforce without increasing its size.

Improving the management of Federal agencies and their programs.

Reducing fraud and waste in Federal programs.

Reducing the cost of government programs.

The purpose of this document is to:

Recognize those departments and agencies who have contributed to a more effective and efficient government through innovative use of technology.

Stimulate the transfer of ideas and applications of technology.

Requests for further information on any particular application of technology included in this document should be directed to the agency that developed the application.

We welcome suggestions on other effective applications of technology which should be included in future revisions of this document.

OBTAINING SOCIAL SECURITY BENEFITS

By using a telecommunications system called SSADARS, the Social Security Administration has significantly reduced the waiting period for beneficiaries to receive their first check. Until recently, a potential beneficiary frequently had to make at least two trips to the local Social Security Administration Office before receiving a check. After going to the office to apply for benefits, the individual had to return after his or her records arrived from the central office in Baltimore. Days and sometimes weeks elapsed between interviews as a result of delays in the mails and the manual processing of records. Essential information is now usually available the first time the individual comes to the local office. In addition to providing faster and better service to the public, this system will save $25 million between FY 1980 and FY 1984 as a result of labor cost avoidance.

REDUCTION OF FRAUD AND WASTE

Agencies are reducing fraud and waste in Government programs through the conduct of computer matching programs conducted in a manner consistent with OMB guidelines to minimize unnecessary Government intrusion into the privacy of individuals.

Improper welfare payments have been identified by the Department of Health, Education and Welfare through computer matching of welfare recipient records and Federal employee records. "Project Match" which resulted in $330,000 savings in improper expenditure of Federal welfare funds during the last quarter of FY 1978 is expected to result in $11 million per year reductions in improper Federal, State and local government welfare payments beginning in FY 1979.

The Veterans Administration has developed an automated system to aid in the recovery of benefit overpayments. The Centralized Accounts Receivable System records such overpayments, determines delinquent accounts and automatically produces the forms, letters and reports required to refer such accounts to the Department of Justice for collection. Use of this system during calendar year 1978 assisted in the recovery of $42 million of overpayments.

The Department of Health, Education and Welfare, through a computer match called "Operation Cross Check," has identified 16,700 Federal employees or former Federal employees who have defaulted on payment of student loans amounting to a total of more than $16 million. Since September 1978 some 3,200 have either paid in full or begun systematic repayment of their loans. Collection action is continuing on the remaining accounts.

The Department of Health, Education and Welfare has used computers to identify improper Medicaid payments to doctors and druggists. "Project Integrity," which was established to screen the appropriateness of 250,000 medical payments made during 1976, identified questionable charges by 2,500 doctors and druggists. Administrative and legal actions are being taken to recover improper payments amounting to millions of dollars. These actions resulted in 27 indictments during FY 1978. Over 100 additional cases have been referred for possible prosecution and administrative action is being taken on 750 other cases. In FY 1979, the program will be expanded to include an analysis of payments to dentists and clinical laboratories.

WATER SUPPLY PREDICTION FOR WESTERN FARMERS

The Soil Conservation Service of the Department of Agriculture has established a system to predict spring and summer water runoff in States west of the Mississippi River to help farmers decide which crops to plant. The system, consisting of unmanned sensors to measure snowfall and related data, utilization of "meteor burst" telemetry and computers, will be operational on a limited scale (230 out of an eventual 460 stations) during the winter of 1978/1979. When fully operational by FY 1980, the system will be operated by the Government at an annual cost of $1.6 million and is expected to save farmers from $4.4 to $4.6 million annually.

DELIVERY OF VETERANS BENEFITS

Implementation of the TARGET system by the Veterans Administration will allow faster more responsive provision of benefits to Veterans while enabling the VA to reduce staffing requirements in their regional offices by 2,100 work years over the next 12 years.

CANCER RESEARCH

The National Center for Toxicological Research is expecting to improve the quality and accuracy of cancer research and significantly reduce research costs by the installation of a network of terminals and minicomputers in FY 1979. This system will be used to assist in studies of the biological effects of toxic substances on animals to determine their potential impact on people. Cumulative net savings of $930,000 during FY 1980 through FY 1984 are expected as a result of reduced labor and equipment rental costs. After FY 1984, when the $7.5 million cost of the system is fully amortized, savings of $1.8 million per year are expected.

INCOME TAX PROCESSING

Internal Revenue Service costs for depositing tax payments and posting taxpayer credits will be significantly reduced by a new computer system which combines two previously separate processes. The new system is expected to result in a savings of 150 staff years ($1.7 million) in FY 1979 and 292 staff years ($3.4 million) in FY 1980 and subsequent years.

TRANSPORTATION REGULATION

The Interstate Commerce Commission has used technology to enhance effectiveness of the transportation regulation process and provide faster delivery of services to the public. During a recent twelve month period, average processing time for handling a regulatory action was reduced by 15%, despite a 41% increase in new case openings. Use of on-line computer systems will result in an estimated cost saving of $400,000 in FY 80 and a saving of 30 persons.

AUTOMATION OF BUSINESS REPORTS

The Securities and Exchange Commission is reducing costs for processing reports on stock offerings, financial reports, and other business reports. This system will result in estimated annual savings of $50,000 in FY 79, $125,000 in FY 80, and $353,000 per year, thereafter, as a result of reducing staff requirements by 35 clerical personnel.

EMPLOYER REPORTS ON WORKER EARNINGS

The Social Security Administration costs for processing employer reports on worker earnings and tax payments will be significantly reduced beginning January 1979 as a result of the development and installation of new optical scanning devices. Installation of the new devices and the elimination of quarterly reports are expected to save $8.8 million in salaries (635 work years) and work related costs during the calendar year 1979. Similar or larger savings are expected in subsequent years.

AUTOMATED BANKING

The Export-Import Bank has recently developed a new computer system to improve internal bank operations. The new system permitted the bank to absorb a 31 percent increase in workload during FY 78 without increasing staff and at the same time realize an estimated net annual savings of $150,000. The savings which are expected to continue at the same or higher levels in future years are as a result of faster deposit of funds in the U.S. Treasury and the reassignment of 8 to 10 employees to other duties.

ELECTRONIC FUNDS TRANSFER

The use of electronic funds transfer by the Department of the Treasury has resulted in significant interest savings. These savings result from faster processing of government receipts from the sale of gold, foreign military sales, and similar transactions. These savings totalled $18 million in FY 77, $26 million in FY 78 and are expected to save $60 million in FY 79 and at least $350 million from FY 80–FY 84.

WEAPONS PROCUREMENT CONTROL

The Department of Energy weapons production plant at Kansas City operated by Bendix Corporation has developed a Computer Aided Material Procurement System (CAMPS) which is used to control inventories, procurement, and maintain financial records for non-nuclear materials and other components used in producing nuclear weapons. The system was developed at a cost of $700,000 which will be fully amortized by FY 79 and will result in reduced operating costs of over $300,000 per year thereafter as a result of approximately 15 fewer people required to perform these functions.

ENERGY CONSERVATION

A computer model developed by the Federal Aviation Administration is saving fuel for America's airlines. The aircraft flow control model can be used to schedule landings and departures during bad weather in order to minimize fuel consumption. This is accomplished by delaying aircraft at the point of departure consistent with the rate at which aircraft can be accommodated at the arriving airport. During one 21½ hour period at O'Hare Airport in Chicago, use of this model resulted in fuel cost savings of over $640,000.

LOCATING MISSING AIRCRAFT

The Federal Aviation Administration has developed a computer program which has reduced the average time to find a missing aircraft from 174 hours to 36 hours. Since the first 48 hours after a crash are the most critical, this has immeasurable benefits in terms of human lives. Another benefit of this program is that, since 1975, the number of search incidents has increased 12.5%, but the total hours flown on search missions has decreased 32%—resulting in large savings in equipment depreciation and fuel costs.

SEARCH AND RESCUE AT SEA

Two computer models developed by the Coast Guard have reduced the time needed to locate missing ships. The use of computer models has reduced the time required to develop search plans from approximately one hour to a few minutes and absorb a 50% increase in search and rescue cases since 1972. Without these models, the Coast Guard would have needed 65 more people to respond to the increasing number of distress incidents.

OVERSEAS TRAVEL

The State Department is developing a system to use computers to issue passports which will result in more rapid processing of passports and reduce costs. Current estimates indicate that when the new system is fully implemented, in 1985, direct labor requirements will be reduced 40% and direct costs will be reduced by over 30%, a direct cost savings of approximately $2.5 million a year.

SPACE PROGRAM

Technology is critical to the success of the U.S. space program. To assure efficient use of this technology, NASA utilizes the Computer Software Management Center (COSMIC) at the University of Georgia to reduce duplication in the development of software and make maximum use of existing software. In FY 78, this program saved $6.35 million, and this savings is expected to continue or increase on an annual basis.●

TRIBUTE TO LITHUANIAN INDEPENDENCE

● Mr. DOMENICI. Mr. President, Lithuania has a tradition of independence which can be traced back to the 11th century. To Lithuanian-Americans, February 16 is a day commemorating the proclamation of independence in 1918 and also a day of vigilance remembering the forcible incorporation by the Soviet Union.

While other of my colleagues in the Senate will certainly offer tribute to Lithuanian-Americans on this day, I wish to reflect on a somber thought.

The United States has never recognized Soviet domination of Lithuania. The most explicit reminder of this policy is the recognition of Free Lithuania as

a member of the diplomatic community. The legation offices are located at 2622 16th Street. Dr. Stasys A. Bachis, Chargé d'Affaires, has represented the free government here in Washington for decades. His quiet, diligent dedication to this arduous task is to be praised. Yet this symbol of hope of freedom from Lithuanians may soon be gone.

Dr. Bachis is grown old with the burden of his task. Lesser men would have long ago transferred the task to a younger shoulder. But in this case there is no one else to do the job.

By diplomatic laws, a diplomat must be a citizen of the country he represents and be appointed by that sovereign nation. Because of the Soviet domination, there is no remaining source of diplomats to replace Dr. Bachis.

What will happen to Dr. Bachis and the legation building? Funds held in trust by this country for maintenance of the residence and to pay for official expenses will soon expire. The Soviet diplomatic community gleefully awaits this day.

As the cunning fox who preys on the defenseless rabbit, so too the Soviets wait, for time is on their side.

When this day comes the statement of nonrecognition will become more rhetoric and soon thereafter will be forgotten.

To Lithuanian-Americans I say this must not happen. February 16th is the day to remember the past and rededicate to the future. Thank you, Dr. Bachis, for your example as a diplomat, and long may you serve. To the Lithuanian-American community the task of preserving his work is in your hands.●

LITHUANIA'S INDEPENDENCE DAY

● Mr. LEVIN. Mr. President, more than 700 years ago, the Lithuanian people united in a single nation whose boundaries, at the peak of its expansion, extended nearly to Moscow in the east and to the Black Sea in the south. The vicissitudes of her subsequent history included periods of domination by Russia and by Poland, but the flame of independence was never quenched in the hearts of the Lithuanian patriot. During some of the heightened episodes of foreign hegemony, many of these people emigrated to the United States and, during the late 19th and early 20th centuries, played a significant role in the growth of this country.

Although no citizens have been more loyal and devoted to their new country, the Lithuanians have never forgotten the proud traditions and culture of their ancestors. I served for several years as president of Detroit City Council which annually sponsored summer-long ethnic festivals. The participation of Lithuanian Americans has always been one of the most colorful and enlightening events.

On February 16, Lithuanians throughout the world observed the 61st anniversary of the Declaration of Independence of Lithuania when, in 1918, it announced the beginning of its most recent period of national autonomy. Lithuania flourished in her economy, polity, and culture for 20 years between two world wars until, overwhelmed by the sheer numbers, first by the Russian Army, then the invading Germans, and finally the Russians, she was made a Soviet republic.

However, resistance to Russian domination has never ceased, and the centuries-old spirit of independence still lives in the hearts of the indomitable Lithuanian patriots.

Mr. President, I am proud to salute the Lithuanian people for their achievements and for their example to the rest of the free world.●

MORMONS: TRIUMPH IN THIS WORLD

● Mr. HELMS. Mr. President, it has been said that every major question in history is a religious question. This observation has to do less with any particular church or theology than it does to the basic spirit within us all. Whether or not it is recognized, this spirit is the innate recognition of a God and a universal order.

For many Americans, religion is only a casual incident hardly affecting the day's routine. But for a growing number of Americans' religion has grown from a cavalier practice to that which is at the center of their lives.

Recently, the distinguished columnist, George F. Will, wrote a column celebrating one large group of Americans who are imbued with this spirit, the members of the Church of Latter-day Saints. As a Baptist, I commend to every American this column written by an Episcopalian about the Mormon Church and I ask unanimous consent that it be reprinted 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:

[From the Washington Post, Jan. 21, 1979]

MORMONS: TRIUMPH IN THIS WORLD

(By George F. Will)

PROVO, UTAH.—An administrator of a private elementary school in Washington recently explained the school. "We have desks," she said, "and doors." Her listeners, parents aware of today's educational doctrines, understood perfectly. The school favors "structure" rather than "open classrooms."

I am agnostic about the desks-and-doors doctrine, but I admire schools that know their own minds. One such is Brigham Young University. Like its namesake, and like the state it adorns, BYU is pleased to be a bit different.

BYU is, broadly speaking, a desks-and-doors school. The honor code mandates "graciousness" and the dress and grooming "standards" say that beards and "bushy sideburns are "not acceptable," moustaches are "not encouraged," women's hemlines are to be of "modest length," and jeans are not acceptable women's wear for classes.

Who, you indignantly ask, do BYU's administrators think they are? The point is that they know exactly who they are and what they are about. Mormons are short on identity crises, and long on certitude. Where but among Utah's Mormons can you hear President James Buchanan denounced? That may seem like denouncing rye bread—an inherently disproportionate investment of passion—but Buchanan sent the army to break the Mormons to the saddle of federal authority. The government was slow to believe that Mormons could be a community within the national community without being a community against the national community.

"Utah," writes Daniel Boorstin, "remains even now a living monument to the scope that the West offered to the genius of the organizer." Utah's organizer was Brigham Young, who led the Mormons west.

"Rejected in one place after another," Boorstin writes, "their westward movement was a staccato series of enforced group transplantations, each more remarkable than the last as a feat of organization. . . . For the long march across Iowa, the Mormons built roads and bridges, and even planted crops to be harvested by those who came after them the next season."

Mormons make up the most singular great church to come into existence in the United States, and it is quintessentially American. It is about doing things, triumphing in this world, turning faith into works. There are no Mormon monasteries; it is hard to imagine Mormons given over to the purely contemplative life. Today, these "American Zionists" are conservative in distrusting dependence on a welfare state, but they practice the ethics of common provision through a remarkable church welfare program.

They were and, to an extent astonishing in this homogenizing nation, still are as distinctive as the first Americans, the Puritans. They, like the Mormons, considered themselves "visible saints" with a divinely ordained "errand into the wilderness." Mormons do utterly lack the Puritans' gloominess and could, perhaps, be improved by just a touch of it.

It is against the laws of nature to be as upbeat as Mormons can be over a 7 a.m. eye-opening cup of hot chocolate. But, then, one of Utah's charms for people like me (people so straight that they would not recognize marijuana if a bale of it fell on them) is that in Utah they often can feel conspicuously, thrillingly improper by just drinking coffee.

Recently, Barbara Walters interviewed Donny and Marie Osmond, the Henry Fords of show business. (They mass produce entertainment, each product indistinguishable from all the others.) Donny and Marie are Mormons who, supported by their extended family, live in Utah, and avoid the contaminations of entertainment capitals.

The interview turned, as Walters' interviews occasionally do, to the subject of sex. Would they, Walters asked, consider premarital sex? No, said he. No, said she. Not "No, except . . ." Or "No, unless . . ." Just: No. Walters waited for the qualifying clauses sought them; then surrendered to astonishment.

Walters has a veteran journalist's worldliness and could cover the general resurrection with an air of having seen it before. But she seemed never to have seen the likes of the Osmonds.

The Mormon sensibility sometimes makes Utah appear to others like an enclave surrounded on four sides by reality. Certainly a different reality is just an hour flight away, in Denver, where a nightclub advertises: "The Newest Entertainment Rage—Mud Wrestling: Beautiful Girls Fighting Topless in a Pit of Real Mud."

Some people evidently think it matters that the mud is "real." And those people probably think Mormons are peculiar.●

SUPPORT FOR CABINET DEPARTMENT OF EDUCATION

● Mr. RIBICOFF. Mr. President, on February 6, 7, and 8, the Governmental Affairs Committee held hearings on S. 210, legislation to establish a separate Cabinet Department of Education. The committee heard from 25 witnesses who dis-

cussed the importance of protecting State, local, and private control of education, the importance of insuring equal educational opportunity, the relationship between the new Department and higher education and nonpublic education and the transfer of the vocational rehabilitation programs.

The recent editorial comment by Carl Rowan in the Washington Star discusses the importance of this measure. I ask that this article be printed in the RECORD.

The article follows:

[From the Washington Star, Feb. 19, 1979]

EDUCATION NEEDS ITS OWN DEPARTMENT

(By Carl T. Rowan)

We Americans like to boast that we are "the best educated society on earth." We indulge in this rather harmless falsehood by way of paying tribute to education as the basis for a young nation's rapid rise to world pre-eminence.

But even as we boast of what learning has done for America, most of us are acutely aware of the shortcomings and failures of our system: the 21 million American adults who can't read or write well enough to cope; the army of dropouts and pushouts who swell the tragic ranks of the teen-age unemployed; the college graduates taking jobs as teachers who can't pass a test designed for 13-year-olds; the lingering warfare over racial segregation and discrimination at both the public school and college levels; the financial squeeze on many private colleges.

These problems have all grown more acute during the 55 years that Americans have been debating and studying the concept of a federal Department of Education. Unless blind opposition to change overwhelms logic, we ought to get approval of a cabinet-level Education Department out of the 96th Congress.

The Senate, prodded by President Carter and almost 100 major educational and other organizations, approved such a department last September. The bill won approval, 27 to 15, in the House Committee on Government Operations and then got crushed in the October rush to adjournment of the 95th Congress.

The House will be hard to bring to reason in this Congress, but the odds are that a majority of lawmakers now senses that there is urgent need to remove education from its semi-burial ground in the mammoth Department of Health, Education and Welfare.

The subordinate role of the "E" in HEW is only part of the problem. Federal education programs are spread out among more than 40 government agencies. In HEW alone, some programs are under the jurisdiction of the commissioner of education while others are overseen by the assistant secretary for education. Most programs are run by lower level bureaucrats who see the president only on TV.

That is why President Carter told a Pennsylvania town meeting that "less than 2 per cent of my time, or 1 per cent, is spent on education."

When our education system affects 60 million Americans so directly and deeply, and is so vital to the nation's well-being, it is time we gave it cabinet-level status, with direct access to the president and all the other advantages that go with cabinet-level rank.

A single Department of Education probably will be more effective in enforcing such things as policies forbidding racial discrimination, or the short-shrifting of the handicapped.

A cabinet-level Department of Education will never be a panacea for all our education woes, but it will be a vast improvement over the wasteful jumble that we now tolerate. The 96th Congress ought to move speedily to lift education to the high priority that it deserves.●

COMMEMORATION OF LITHUANIAN INDEPENDENCE DAY

● Mr. SCHWEIKER. Mr. President, February 16, 1979, marks the 61st anniversary of the reestablishment of Lithuanian independence and the 728th anniversary of the founding of the Lithuanian state. In publicly commemorating these events, Americans of Lithuanian descent reaffirm their commitment to the exercise of basic human rights which have so often been forcibly suppressed during Lithuania's tortured history.

In 1918, Lithuania achieved independence after 123 years of oppression by Russian czars. Nearly 40 years have passed since Lithuania was denied its right to self-determination by the Soviet Union's invasion, occupation, and annexation of the Baltic states during World War II. Although the U.S. Government has never recognized the Soviet occupation of the Baltic states of Latvia, Lithuania, and Estonia, the denial of human rights and the Soviet policy of forced assimilation have not generated the outspoken official protest they warrant.

The horrors of the Stalin era have been replaced with subtler, though no less invidious, means of repression. Although the hopes of many Eastern Europeans were raised when the Soviet Union signed the Helsinki Final Act in 1975, and again when human rights were brought before a world audience at Belgrade in 1977–78, first-hand accounts by Soviet prisoners of conscience and reports in the Western press indicate that the repressive practices have not abated. In Lithuania, the Soviets continue to arrest, imprison, exile, or harass increasing numbers of Lithuanian dissidents for alleged "crimes against the State."

In commemorating these Lithuanian anniversaries, the United States should rededicate itself to the tireless promotion of human rights in every world council so as to keep alive the aspirations of Lithuanians and all other persecuted peoples who desire the unfettered opportunity to exercise these rights.●

ETHICS IN GOVERNMENT

● Mr. RIBICOFF. Mr. President, concern has recently been expressed about the effect of a provision in the Ethics in Government Act, which was adopted last year. Specifically much of the concern has focused on the "aiding and assisting in representing" provision, which applies to certain conduct after high-ranking officials leave office.

These as well as the other provisions of the Ethics Act were carefully considered in Congress. They had the full support of the President and the Department of Justice.

However, I believe that regulations should be issued promptly by the administration in order to provide guidance and information to those who will be affected by the act. In order to assist the new Office of Government Ethics in its responsibility to issue such regulations, a memorandum was prepared by the chairmen and ranking members of the House-Senate conference on that legislation. The memorandum sets forth the legislative intent of that provision.

Thus interpreted, I believe the provision is both necessary and reasonable.

Mr. President, I ask that the covering letter and the memorandum, authored by Senator PERCY, Congressman DANIELSON, Congressman MOORHEAD of California, and myself, be printed in the RECORD.

The material follows:

U.S. SENATE,
February 16, 1979.

BERNHARDT K. WRUBLE,
Director Office of Government Ethics, Office of Personnel Management, Washington, D.C.

DEAR DIRECTOR WRUBLE: Recently there has been some misunderstanding regarding the scope of one of the provisions of the Ethics in Government Act, adopted by Congress last October. We believe clear and concise guidance by the Office of Government Ethics is essential.

As you know, the Ethics Act does not in any way prohibit forms of employment, or prevent a Federal employee from taking any position with any firm or organization which he chooses when he leaves the government. The major thrust of last year's "revolving door" provisions was to restrict contact by high-ranking officials with their former agencies for a period of one year after leaving the government.

One additional limitation was added by the Ethics Act. The additional limitation bars former high-ranking Federal officials from aiding or assisting in representing on specific matters involving their former agency.

It is this additional provision which seems to have created some misunderstanding. Both the transcript and the report of the House-Senate conference demonstrate that this provision applies only to subsequent representational activities, and applies only to those matters in which a former high-ranking official had been personally and substantially involved. The provision was addressed solely to the problem of "switching sides" on specific cases or matters after an employee leaves the government. The intent was to foreclose active, specific involvement in representation on the part of certain former government officials. It is not in any way designed to restrict involvement in general matters which may have fallen under an employee's official responsibility while he was in government service.

In connection with your responsibility to recommend regulations or guidelines under the Ethics Act, we are enclosing a memorandum which we hope will be helpful on the background and scope of this provision.

We stand ready to be of whatever assistance we can in connection with your efforts.

Sincerely,

GEORGE E. DANIELSON.
CARLOS J. MOORHEAD.
ABE RIBICOFF.
CHARLES H. PERCY.

MEMORANDUM ON THE "AIDING AND ASSISTING IN REPRESENTING" PROVISION OF 18 U.S.C. 207(b)

Title 18, section 207(b), as amended by the Ethics in Government Act, contains two distinct restrictions on post government employment of Federal employees, based upon the degree of personal knowledge and association a former employee had with a particular matter during government service.

Section 207(b)(i) is essentially a restatement of existing law. This provision applies to *all* former Executive Branch officers and employees. It provides that, for a period of two years, an employee may not knowingly act as agent or attorney on a particular matter which was pending under his "official responsibility" during his final year with the

government. As amended last year, the length of the prohibition is extended from one to two years.

In contrast, 207(b)(ii) applies *only* to high-ranking former Executive Branch officers, such as Presidential appointees, and others designated by the Office of Government Ethics as having major decision-making authority. This is the "aiding and assisting in representing"[1] provision. It provides that, for a period of two years, such high-ranking officials may not knowingly represent, or aid, counsel, advise, consult, or assist in representing any other person on a particular matter, in which the former official was "personally and substantially involved" while in office. 207)b)(ii) was added by last year's legislation.

Both 207(b)(i) and (ii) have important limitations. Both include only "particular matters involving specific parties" that were pending before the official while in government service. Therefore, rule-making, formulation of general policies or standards, other similar administrative matters and legislative activities—none of which typically involve specific parties in specific cases—are *not* included in the prohibition. In addition, both 207(b)(i) and (ii) require that the proscribed conduct must occur in connection with a "formal or informal appearance" before a court or agency.

Questions have arisen concerning the scope of the 207(b) provisions. Some have asked whether the "aiding and assisting in representing" provision may not be limited just to those matters in which the former official was personally and substantially under official responsibility. Questions have also arisen about the meaning of the term "representing."

However, we believe that both the policy and legislative history of the provision demonstrate that "aiding and assisting in representing" is restricted only to matters in which the former high-ranking official was "personally and substantially involved" while in office. They also demonstrate that representational activities are limited to those where the former official is directly involved in a formal or informal appearance before an agency or court.

"PERSONAL AND SUBSTANTIAL" INVOLVEMENT

The original Senate version of the Ethics Act, S. 555, contained a provision which imposed a lifetime ban on matters in which a former official had extensive involvement while in office. The Senate report on S. 555 stated, "The more intimate and extensive the involvement of the official, the greater the restriction is on the official's later involvement on those matters * * * on behalf of private clients." Thus S. 555, as passed by the Senate, provided a subsequent consultation restriction which was part of 207(a), a lifetime ban which solely concerned particular matters in which there had been "personal and substantial" involvement.

In conference, the Senate agreed to accept the House language on "aiding and assisting in representing." Thus what had been a lifetime ban in the Senate bill was reduced to a two-year ban, as proposed in the House-passed measure. That language, which was only slightly modified in conference, was recommended by the Administration.

The House-Senate Statement of Managers on the legislation demonstrates that the two parts of 207(b) apply to different matters: 207(b)(i) applies only to matters under "official responsibility," and 207(b)(ii) applies only to matters where there had been "personal and substantial" involvement. The Statement of Managers, in explaining the "aiding and assisting in representing" provision, states:

"It is the intention of the conference that this provision will prohibit a former officer or employee from subsequent consultation on a matter, *in which he was personally and substantially involved while in office*, even though he is not representing a party in that matter."

The transcript of the House-Senate Conference proceedings further supports that construction. During the conference, the "aiding and assisting in representing" provision was repeatedly linked to "personal and substantial" matters.[2]

Therefore, the legislative history indicates that the "aiding and assisting in representing" applies only to those particular matters in which the former official had "personal and substantial" involvement while in office. Thus "switching sides" on specific cases is restricted. Also that conclusion is supported on policy grounds. Matters more remotely under "official responsibility" would not involve such specialized knowledge and thus would not justify this type of restriction.

REPRESENTATIONAL ACTIVITIES

As previously mentioned, the House-Senate Conference on this legislation agreed to accept the House language on "aiding and assisting in representing." The Senate bill had provided in 207(a) that officials would not "aid, assist or represent" parties in certain matters. The Senate language thus suggested a distinction between aiding and assisting, as compared with representing.

The House language made no such distinction. Indeed, the language proposed by the House and adopted by the conference established a definite relationship between aiding and assisting, and representation. The relevant language of 207(b)(ii) as enacted is: "represents or aids, counsels, advises, consults, or assists in representing." The legislative history indicated that the words "in representing" were intended to qualify the language, "aids, counsels, advises, consults, or assists."

In its report on H.R. 1, the House Judiciary Committee stated that, "This revision [of 18 U.S.C. 207] makes it clear that subsections (a) and (b) prohibit *representational* activity . . ." In discussing this specific provision, the House report indicated that high-ranking officials would be "barred from aiding and assisting *in the representation* of any other person in any such matter before a government agency." According to that report, the conduct prohibited under the "aiding and assisting in representing" provision must occur in connection with some representational activities.

The transcript of the House-Senate conference proceedings fully supports the conclusion that aiding and assistance was linked to representation. Indeed, during the conference Congressman Stratton specifically objected to the "aids, assists or represents" approach that was contained in the Senate version:

"The guts of this [207(b)(ii)] would seem to me to be in representing some person, as an attorney or in some other way. But if an individual who had been in the government goes to work for IT&T let's say, and some other individual in the company is going to appear before . . . a regulatory agency and he writes a statement for him or prepares a graph or tells him what a particular chemical reaction would be under certain circumstances, without even leaving the IT&T office, he would be banned from doing this.

"That is not what we want to accomplish . . . So it would seem to me that if we make this simple change, knowingly represents, or aids or assists in representing any other person. *We are concerned about the aiding and assisting as it relates to the representation."*

The following exchange that took place between Congressman Stratton and Senator Ribicoff further clarified the point:

"Senator RIBICOFF. I want to know what your intentions are. Is it your intention that if a man works [in] the Antitrust Division on X case, that if he leaves and goes to work with Y law firm, he can then go and work with Y law firm on the X case when he is on the other side. You don't want that, do you?

"Mr. STRATTON. Then he would be aiding or assisting in the representation which is what we specifically prevent.

"Senator RIBICOFF. . . . What we are talking about is being involved on the other side of the case when he knew what was in the government's case.

"Mr. STRATTON. That is exactly it. So he is either representing or he is aiding or assisting in the representing."

"So the thing that each one of these paragraphs is trying to prevent is a representation, either as an agent or an attorney for.

"In this case, we would properly ban those who are aiding or assisting in that representation. That is the way it was drawn up. That is the way we understood it."

That interpretation was later accepted by the conference.[3]

In conclusion, 207(b)(ii) proscribes, for a period of two years, only aiding and assisting in connection with representation, which concerns a formal or informal appearance before a court or agency. Absent the element of representation, the provision has no application to consultation following Federal service, even in a matter in which the former official was personally and substantially involved.

One final point: It should also be noted that 207(b)(i) and (ii)—as with 207(a) and (c)—do not apply to "communications solely for the purpose of furnishing scientific or technological information." (See 18 U.S.C. 207(f).) Congressman Stratton, the author of that exception, indicated that its purpose was to ensure a free flow of technical information between government and the scientific community. As the Congressman stated during floor debate, scientists should not be "prohibited from furnishing information to their former agencies which could assist research and development programs."

Thus the "aiding and assisting in representing" provision of 207(b)(ii) applies only if all of the following conditions are met:

1. The former high-ranking official must have been "personally and substantially" involved in that matter during government service;

2. It must be a particular matter involving specific parties;

3. The "aiding and assisting in representing" must occur in connection with representation, which directly concerns a formal or informal appearance before an agency or court; and

4. The assistance or consultation must be something more than furnishing scientific or technological information, which is expressly excepted by 207(f).

EXAMPLES

A few examples may be helpful in understanding how these provisions will work.

Some situations where 207(b)(ii) applies:

a. A high-ranking Justice Department lawyer personally works on an antitrust case against ABC Company. After leaving the Department, he discusses legal strategy with lawyers representing ABC Company on that same antitrust case. Such consultation in the same case would be prohibited.

b. A high-ranking Defense Department official participated personally and substantially

[1] The actual language of the provision reads: "aids, counsels, advises, consults, or assists in representing . . ." Hereafter in this memorandum, it will be referred to as the "aiding and assisting in representing" provision.

[2] See Stenographic Transcript, "House-Senate Conference on S. 555," October 5, 1978, pp. 133–34.

[3] *Ibid.*, p. 138.

in an award of a government contract to XYZ Company for fighter planes. After leaving the Department, the former official goes to work for XYZ Company. Subsequently, the contractor desires to renegotiate prices on the fighter plane contract with the Defense Department. The former official could not assist the lawyers for the contractor in obtaining DOD approval of that revision.

Some situations where 207(b)(ii) would *not* apply:

a. A high-ranking Justice Department lawyer personally works on an antitrust case against ABC Company, which is represented by Y law firm. After leaving the Department, he goes to work with Y law firm, and represents DEF, Inc. in an antitrust case. Such representation would not be barred. Nor would he be prohibited from representing, or assisting the lawyers who represent, ABC Company in a separate antitrust case. The 207(b)(ii) restriction does not apply, because the "aiding and assisting" does not occur in connection with the same case.

b. A high-ranking official of the Department of Health, Education and Welfare leaves the government to take a university position. Thereafter the former official has broad responsibility for various HEW contracts which the university holds. He also advises lawyers, who represent the university, in contract matters which are pending before HEW. Those same matters were under the former officer's official responsibility while he was in government service. The 207(b)(ii) restriction does not apply because the "aiding and assisting in representing" does not concern matters in which the former official was personally and substantially involved while in office.

c. A high-ranking scientist with the Food and Drug Administration was personally and substantially involved in a licensing proceeding on a specific drug. After leaving the FDA, he is employed by the manufacturer of that drug. There he engages in research, indicating that the drug is safe and effective, which his employer later provides to FDA. The restriction does not apply because the former official is furnishing scientific information to the government. (See 18 U.S.C. 207(f).)

d. A former General Counsel of the Federal Communications Commission leaves the agency to join a law school faculty. In one of his courses, he discusses a specific licensing case in which he was personally and substantially involved while at the FCC. The restriction does not apply because the conduct does not occur in connection with any representational activities.●

THREATS TO AMERICAN SECURITY IN THE WESTERN PACIFIC AND INDIAN OCEAN

Mr. HARRY F. BYRD, JR. Mr. President, yesterday the Senate Committee on Armed Services held hearings on developments in the strategic balance in the Western Pacific and Indian Ocean region. The chief witness appearing before the committee was Adm. Maurice F. Weisner, U.S. Navy, who, as commander-in-chief, Pacific, heads all U.S. military forces in the Pacific area.

The testimony presented to the committee was extremely interesting and informative in several areas about which there is limited public knowledge.

First, contrary to many public announcements by members of the executive branch, Admiral Weisner, in response to a question I asked, stated his firm military judgment that the military and naval forces of Mainland China are at the present time fully capable of successfully attacking Taiwan. In fact, the admiral testified that Mainland China has the existing ability "to bring Taiwan to her knees." He added that he did not feel that the Republic of China has such intentions, however.

Now, Mr. President, I am concerned that the American public is inadequately informed with regard to the military capability of Mainland China and that the public may be misled as a result of statements made by the administration that Mainland China does not have such military capability to successfully attack Taiwan. I am hopeful that Admiral Weisner's informed military testimony provided to the Committee on Armed Services will set the record straight.

Second, Admiral Weisner reported to the committee that Mainland China is "working on a full range ICBM that will give them the capability to strike targets as far away as the continental United States."

I believe the American public is entitled to know when Mainland China will have the ability to attack the United States with nuclear weapons. The American public should be alerted to this ongoing work in Mainland China to develop an intercontinental ballistic missile. As Admiral Weisner pointed out in his statement, Mainland China already has the ability to hit European Russia with a limited range ICBM so certainly the American people are entitled to ask why efforts are being made to develop this new intercontinental missile capable of reaching North America.

Americans should be informed also that Mainland China has approximately 3.5 million ground troops organized in over 200 combat divisions; a 500,000-man air force with over 5,000 fighter aircraft; and the third largest Navy in the world (350,000 personnel) with more than 1,200 ships of all types, including at least 80 attack submarines. These facts Admiral Weisner provided to the committee, and he gave the further information that Mainland China is developing ballistic missile submarines.

Great care should be exercised in the coming months to guarantee that, in the Carter administration's rush to supply technology to Mainland China, no technology is supplied to Peking which would assist in these ongoing Chinese efforts to develop submarine launched ballistic missiles or ICBM's capable of hitting American cities. Let us not make the possibly fatal mistake of arming a potential adversary with advanced weapon technology dangerous to our own security.

Now, third, Mr. President, Admiral Weisner expressed grave concern over the ability of the U.S. Navy to protect the vital sea route from the Persian Gulf around the African Cape of Good Hope to Western Europe and to the United States. He pointed out that this route is used in transporting a major portion of Persian Gulf petroleum to the West.

He highlighted the danger of the growing Soviet military presence in the Horn of Africa and noted the potential threat posed to the Mozambique Channel by the pro-Soviet governments in power in Madagascar and Mozambique.

Finally, in response to a question by me, he stated his military opinion that a U.S. naval base in South Africa would be "very valuable."

Mr. President, the Senate should take account of this important testimony and should seek to assure that U.S. interests are not jeopardized by misinformation about the military capabilities of other nations, or by lack of sufficient naval strength to keep open the critical sea lanes of the world.

PROGRESS FOR PROJECT HOPE

Mr. PERCY. Mr. President, a recent edition of Newsweek magazine featured an "Update" article on Project Hope which I would like to share with my colleagues.

As some may recall, Project Hope last year celebrated the 20th anniversary of its founding. In that period of time, Hope has established a record for efficient, effective, self-help health teaching programs in developing areas of the world. A nonprofit, people-to-people organization, Hope today continues to help solve health problems on four continents.

The Newsweek article describes briefly the organization's newest undertaking, the Project Hope Health Sciences Education and Research Center in Millwood, Va. The center has been made possible by the generosity of major benefactors and is evidence of the public support Hope continues to generate.

Mr. President, I ask unanimous consent that the Newsweek article of January 15, together with a pamphlet, be printed in the RECORD.

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

THE NEW HOPE

The S.S. Hope, a floating medical center that became a symbol of U.S. aid to underdeveloped nations made its last voyage in 1974. But Project Hope, the private charitable organization that ran the ship, continues as a land-based operation and aims now to become a think tank in the public-health field.

A former World War II Navy hospital ship, the 15,000-ton S.S. Hope traveled more than 250,000 miles after being refitted for peacetime work in 1960, and its volunteer staff performed some 19,000 major operations, immunized roughly 3 million people and trained more than 7,000 doctors and nurses. But by 1974, the great white Hope was, as one volunteer puts it, "an old, leaky, squeaky rustbucket which only God held together," and it was auctioned to a dismantling company for $379,000.

"The ship had such great emotional appeal for everyone that I predicted donations would drop off dramatically when we did away with it," says Project Hope founder and president, William B. Walsh. "Some people did stop giving, but then there were others who started—people who had steadfastly refused to give to the ship because they thought it was just a gimmick." Last year, Project Hope, based in Washington, received $6 to $7 million in private donations and another $2 million in government grants.

Finding Jobs: The money is used for a variety of public-health works in thirteen countries in Africa and Central and South America, as well as in the U.S. Stateside projects include training the entire staff of an Indian-operated hospital on Arizona's 16 million-acre Navajo reservation and developing special health-career programs for Mexican Americans in Laredo and El Paso, Texas. In Laredo, says a spokesman, all of the first

200 trainees found jobs as nurses or medical technicians—freeing them from dependence on welfare.

The organization's main project at the moment is setting up the Project Hope Health Sciences Education and Research Center. Located on a 193-acre estate in Virginia, the center is designed to be, in Walsh's words, a "health-care think tank, the Dumbarton Oaks of the health field." Project Hope spent $1.1 million for the property—which includes a twenty-room mansion known as Carter Hall, formal boxwood gardens, tennis courts and a swimming pool—and expects to spend $3 million on renovations and construction.

The center will open in April, and plans are to have at least ten scholars-in-residence who will hold conferences and seminars. Possible topics: the relationship between patient satisfaction and the quality of care, the high cost of medical equipment, and the pros and cons of government-sponsored national health care. Walsh, 58, also hopes his experts will look into the American system of medical education, which he feels stresses sciences such as chemistry and physics at the expense of what he calls "humanism."

The new center, says Walsh, "will be a much better environment in which to work than Washington. When you put people in a think-tank atmosphere, what comes out is thought that translates into action. I think it's one of the most exciting things we've ever done."

PROJECT HOPE

BACKGROUND

Project HOPE began in 1958; the S.S. HOPE, the world's first peacetime hospital ship, sailed on her maiden voyage in 1960. That trip was to Indonesia, and South Vietnam, and missions followed to Peru, Ecuador, Guinea, Nicaragua, Colombia, Ceylon, Tunisia, the West Indies, and Natal and Maceio, Brazil. These missions averaged ten months. Upon the request of a host country, HOPE selected a cadre of medical personnel to remain when the ship departed after a mission. Teams of up to 20 physicians, dentists, nurses, and allied health personnel follow up on teaching programs instituted during the original mission. Today such programs continue in Peru, Tunisia, the Caribbean, and Natal and Maceio, Brazil, and new programs were developed for Colombia, Egypt, Barbados, Guatemala, and Poland.

Project HOPE departed from its ship-oriented programs in 1969 and began employing the teaching techniques learned abroad in existing facilities in the American Southwest, in the Mexican-American community of Laredo, Texas, and at Ganado, Arizona, on the Navajo Indian reservation. A new domestic program in El Paso, Texas, opened in mid-1974.

In April 1974, the decision was made to retire the S.S. HOPE. Operating from a ship limited the Project to countries which possessed adequate harbors and docking facilities, and HOPE found it essential to respond to the repeated invitations of landlocked nations equally in need of HOPE teaching and training programs.

ACCOMPLISHMENTS

Since 1960, more than 2,500 North American medical personnel have served with the Project, and HOPE has trained over 9,000 physicians, dentists, nurses, and allied health personnel. HOPE has also pioneered new concepts in the use of allied and basic health personnel; helped establish new schools of nursing, dentistry, and physical therapy; assisted in the development of existing teaching institutions; worked in hospitals to teach and implement improved methods of patient care; and helped expand public health efforts. In the process over 191,000 were treated, more than 18,750 major operations conducted, and over three million benefited from the services involved. This work has been documented in three books: A Ship Called HOPE; Yanqui, Come Back! and HOPE in the East. Each was written by William B. Walsh, M.D., HOPE's founder and President, and was published by E. P. Dutton & Co. Also available is Words of HOPE, a history of HOPE's first 12 years.

FINANCING

Ten million dollars are needed annually to sustain the operation of Project HOPE's ongoing programs both in the United States and abroad. The Project depends primarily on private resources and receives tax-deductible contributions from thousands of individuals and groups, including support from organized labor, business, and industry. Project HOPE has received grants from the Agency for International Development to cover a limited part of the costs of HOPE's international programs.

ORGANIZATION

William B. Walsh, M.D., is founder, President and Medical Director of Project HOPE. International Headquarters are in Washington, D.C. Field offices, volunteer chapters and committees are located in major cities throughout the United States. The Foundation is incorporated under the District of Columbia code. It enjoys tax-exempt status with the Internal Revenue Service of the U.S. Government.

CONTRIBUTIONS

Americans can help HOPE give to millions around the globe by donating their talents and financial contributions. Queries and donations may be sent to local HOPE offices or to: Project HOPE, Washington, D.C. 20007.

ROGER STEVENS—A GREAT "NATIONAL ASSET"

Mr. PERCY. Mr. President, with the opening of another theater at the Kennedy Center, it is an appropriate time to reflect upon the importance of the Kennedy Center to those of us in Washington and the Nation as a whole. Since its opening in 1971, 12 million spectators have filled its auditoriums and another 20 million visitors have taken the Center's free guided tours. Millions more have enjoyed televised broadcasts from the Kennedy Center in their homes. With an average attendance level of 82 percent, the Kennedy Center can be termed an unqualified success. Producer David Merrick has hailed the Center as the "most successful cultural facility in the world;" Mikhail Baryshnikov, perhaps the world's most highly acclaimed dancer, has said that "the Kennedy Center has given ballet new life;" and others have credited the Kennedy Center with raising Washington from the "cultural Sahara."

Indeed, Washington is now not only the political capital, but a cultural capital as well, of our Nation. A great measure of the credit for this new role for Washington should go to the Kennedy Center and Roger Stevens. As the unsalaried Chairman of the Board for the Kennedy Center, it is Roger Stevens who has been responsible for the stature that the Kennedy Center has attained. Involved in its planning from the early 1960's, Roger Stevens has guided the Kennedy Center from the conceptual stages, through construction, into its first years of operation and now into an era of expansion with the addition of the Terrace Theater, a magnificent gift from the people of Japan. The theater will be the cornerstone of a new complex that will enable the Kennedy Center to greatly expand its activities in the realm of cultural education and public service. New talents and new works will have the opportunity to be exhibited here in one of the world's finest cultural facilities. Through Roger Stevens' envisioned expansion of activities in this area, the Kennedy Center will truly earn the title of our Nation's cultural center.

Roger Stevens, whom the Smithsonian recently termed as a "national asset," is a gifted individual who has been able to combine the support of the Government, artistic community, and business to create this venerable institution, the Kennedy Center. An excellent portrait of Mr. Stevens was recently given in two articles by David Richards in the Washington Star and I believe that we can benefit from this insight into one of the most dedicated and extraordinarily talented man I have ever been privileged to know.

Mr. President, I ask unanimous consent that these articles appearing in the February 5 and 6, 1979, editions of the Washington Star be printed in the RECORD.

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

THE MAN WHO RESHAPED THE CULTURAL MAP

(By David Richards)

(First of two articles)

Like most superachievers, Roger Stevens enjoys reminiscing about the scruffiness of the past, if only to emphasize the distance he has traveled since then.

He culls an illustration out of the Depression—a time, he would have you believe, when he slept on park benches, jumped freight trains and even landed in jail on occasion for talking irreverently, if not drunkenly, to assorted officers of the law.

"I've always thought that I had a first-rate negative personality," he says with a hint of chuckle.

"I remember going into a bar with this friend of mine, who was pretty outspoken," Stevens says. "He liked to spout the revolutionary language of the left and he could really get a lot of people upset. Before long, he was having a loud argument with this guy at the bar. I was so scared, I wasn't saying anything, just sitting there. Well, when it appeared that things were really going to get nasty, the guy at the bar stopped, looked at me and then turned back to my pal and asked, 'Who's your terrible friend?'"

Stevens smiles. "I've always felt that was a good example of my ability to get along."

In many ways the anecdote presents a mirror image of the man today—a man who instills foreboding in others often by saying nothing at all; a man whose most demonstrable skill over the years has been his ability to forge business and political alliances of a complexity that would be the envy of a Chinese puzzle maker, a man who can indulge in a kind of shambling modesty, knowing full well that at this stage of his life the facts will prevail.

Roger Stevens—magnate, gambler, impresario, wheeler-dealer, monument builder—is the chairman of the board of trustees of the Kennedy Center for the Performing Arts. Even his most vehement detractors—those who call him a "cold fish" or a "tight-fisted Puritan"—admit that the Center would not be there, were it not for his vision and sheer doggedness.

More than any single person, Stevens is responsible for reshaping the cultural map of Washington, transforming a Southern backwater into a major artistic crossroads, second only to New York. In the dark days

before the Kennedy Center, the world's principal arts companies avoided Washington altogether, since playing here meant playing either cavernous Constitution Hall or cramped Lisner Auditorium, neither especially attractive or well-equipped.

With its three major halls, the Center offers the latest in stage technology, near-flawless acoustics and, no small drawing card, backstage creature comforts that border on the princely. It also offers a large, cosmopolitan audience and the very real promise that the president may come calling, an event that automatically generates free nationwide publicity. As a result, the Center can and does attract some of the finest artistic talent—from La Scala to the Berlin Philharmonic, from the Grand Kabuki of Japan to the latest Broadway show.

Because Washington is the seat of influence and appropriations, Stevens' impact has been national. As early as 1964, he was arguing the case for a national cultural center before Congress (which was sometimes dubious), big business (uninterested) and the arts establishment (suspicious). That he eventually reconciled all three groups and got the Center built prompts one friend to say that Stevens could forge an alliance "among a snake, a mongoose and Eve."

Everything about the Center—from its proposed site to its rapidly escalating cost—was matter for contention. "Roger was like a dog with a bone," says a long-time Washingtonian. "He just wouldn't let go. I don't know anyone who could have carried through the way he did." The emotionally-charged opening of the Center in 1971 was as much a tribute to Stevens' negotiating skills, as it was to Kennedy's memory.

Some critics may carp about the edifice, its location, its prices and its fare. In some artistic circles, Stevens continues to be viewed as "a very successful businessman, who has no point of view in the theater, will never have a point of view and is probably incapable of having a point of view," as one observer puts it.

No matter. Stevens has success on his side. Audiences want in. (Attendance at the Center runs at an astonishingly high 82 percent of capacity). Producers, including those who snipe behind his back, want in. Even President Carter has taken to visiting the place with flattering regularity. "Whatever anyone says, the Center works," beams Stevens, always the pragmatist.

At first glance, or even second, he appears to be an utterly improbable figure to head the country's only national cultural center. If he were to act in plays, instead of produce them, he would have been type cast long ago as the absent-minded professor, preferably on a midwestern campus. Tall, bald, and still ingenuously blue-eyed at 68, he plods through the world with a look of preoccupation on his face that suggests more than a passing kinship with one of Aesop's turtles.

Oblivious to fashion, he dresses as if out of an old clothes hamper. Summers, he has been spotted in Hawaiian shirts, rivaling in violence those of the tourists who throng the Center. After he had a heart attack several years ago, his doctor counseled him to keep his head warm. Stevens immediately took to wearing a bright red knit cap, with a pompom on top. During his morning walks through Georgetown, his one regular concession to exercise, he looks startlingly like the world's oldest kid.

Often Stevens will pass friends without so much as a nod, a slight that most of them now attribute to the fact that he is invariably pondering four or five problems at the same time. ("I've never purposefully ignored a good-looking woman in my life," he jokes.) He has an admittedly rotten memory for names and faces. When Arthur Miller's "The Archbishop's Ceiling" was playing in the Eisenhower, Stevens referred to it regularly as "The Archbishop's Cathedral." Recently, he boasted that "Every Good Boy Deserves Favour" was one of the crowning achievements of the Kennedy Center, and then characteristically couldn't remember which Previn wrote the music—Andre or Dory.

Several Center staff members refer to him as "The Great Stoneface" or "The Mumbler." Indeed, so marked is his habit of talking into his chin, or one of his thin, drab ties, that some observers construe it as a conscious tactic. In the buzz of half-articulated words, Stevens slips through the net. He knows exactly what he is doing and how he's doing it, even if he gives the impression that he has just reeled out of a game of Blind Man's Buff.

"I'm supposed to be very intuitive about people, which is why I can put so many deals together," he says. "I guess I know when to push and when not to push, when to listen and when to talk. I've certainly never had any lack of confidence in my ability to make a deal. But that's really the best of it. For the rest, well, I'm not very bright. I'm a bad businessman. I have no desire to make money. I have enough and all I've seen is trouble if you have more. I get bored buying and selling and saving a dollar here and there. I am really much more of a bohemian by nature."

Not many people would describe Stevens as a man of bohemia. Instead, most find him an enigma, although what they perceive as his aloof, diffident facade is prompted as much by his natural shyness as by anything else.

"Someone once compared him to an ancient Roman," says Stevens' wife, Christine. "I think there's an element of that. In other words, stoicism is a large part of Roger's character. He actively refrains from whining and he can't abide complainers. He's a very persistent man. During the height of the Depression, Roger was working on the assembly line of the Ford Motor Company. His job was to take a gear off a belt and hold it up to a rotating wire brush to remove the burrs. This was the time of the famous speed-ups and before long the brush had rubbed his hands raw. But he was supporting his whole family then and was determined to hold onto the job. Two weeks later, he was fired in a general lay-off. He's often said the experience had a great deal to do with his changing from a Republican to a Democrat."

Playwright Arthur Kopit, who was a student at Harvard when he was first befriended by Stevens, tells this story: "Years ago, I was in New York to go to the theater and I dropped by to see Roger in his office one afternoon. He drank then and as we were going out of the building, he remembered that he had just bought a restaurant called Rubens. 'Let's go see what it's like,' he said. Once there, he announced, 'The only drinker is a prohibition drinker,' which I took to be fighting words.

"Three double-martinis later, we pushed through the revolving door somehow, weaved out onto the street and tried to hail a taxi. There were none in sight and Roger was growing visibly impatient. Finally, he turned to me and said, 'That's the trouble with Philadelphia. You can never get a taxi when you need one.' "

Richmond Crinkley, who was Stevens' assistant for three years before recently becoming the executive director of the Vivian Beaumont Theater in New York, also associates Stevens with motion. "One day, we were walking down 45th St. on our way to Sardi's when this fire truck came careening down the street. The sirens were wailing and it was weaving in and out the traffic at top speed. Roger stopped dead in his tracks and said, "Look at that thing go, will you!" I mean, he was full of admiration.

"I really think activity is an absolute necessity for Roger. The most interesting and fruitful times I spent with him were not the times he was in his office or in a theater, but the times he was in a taxi or an airplane or walking down the street, going somewhere. Getting from A to B is really what Roger is all about."

"Roger's a mixture of two things," says Robert Whitehead, Stevens' partner in commercial producing for the past 25 years. "There's a very civilized quality that comes from a conservative upbringing. He has a deep respect for beauty and art and a strong sense of social responsibility. Along with that is this old time American gambler. Most of us feel nerve-wracked when the money dwindles. But Roger just sees money as a means to an end. He has no fear of it. In fact, he's even got a sense of humor about it that is rather marvelous. His attitude is, 'Don't worry. There's plenty lying around.' If you're an old frontier gambler, the theater is a great place to be, because it's one helluva gamble."

Stevens' gambling streak surfaced early. As a teenager, he kept himself in pocket money by taking on his friends at bridge, poker and blackjack, and winning. The aesthetic concerns didn't develop until he had dropped out of school and was discovering that the world could be a bleak place.

His life isn't so much a rags-to-riches saga, as it is a riches-to-rags-to-riches story. The son of a well-to-do real estate broker, Roger Stevens was born in Detroit in 1910 and seemed destined for the traditional Ivy League grooming. He muddled his way through Choate preparatory school and had been accepted for admission to Harvard University when the gathering Depression wiped out his father's fortune.

Instead Stevens went to the University of Michigan at Ann Arbor where the family lived. He lasted a year and quit at age 19. For the next five years, he knocked around Michigan, collecting some of the Depression stories he likes to drop into the conversation. Eventually, he found work as a real-estate broker during the day, and as a gas station attendant at night. Selling real-estate brought him nothing for the first six months; pumping gas brought him $12 a week. ("Even then," says Christine, "Roger was so preoccupied that he often forgot to put the cap back on the customer's gas tank.")

During this period, Stevens discovered books, a passion which has not deserted him and which prompts him to observe, "If I were a bit younger, I think I'd buy a publishing house. More interesting than theater. Books last." (He is a director of Farrar, Strauss & Giroux, and from 1970–75 was chairman of the advisory committee for the National Books Awards.)

He read voraciously, sometimes as many as five classics a week, discovering in the process Joyce and Proust (his favorite novelists) and Pirandello (his favorite playwright). To this day, Stevens continues to read as much as his schedule will allow. "I'll bet," he said, taking time from a recent lunch at the Sans Souci to gaze at the crowd of rich and powerful diners, "that I've read more books of all kinds in the last six months than anyone else in this room."

Stevens denies that reading has been a compensation for the university education he never had. "I just liked to read then and I like to read now," he says. Still, he lets it slip that "Eisenhower used to tell everybody to address me as Dr. Stevens. He assumed I had at least a Ph.D."

As the Depression began to abate, Stevens revealed the business acumen that would make him one of the two most powerful real estate men in the country in the mid-1950s. Trading in undervalued apartment houses and hotels, he had acquired by 1937 a nest egg of $50,000, a yearly income of $25,000 and a wife, the former Christine Gesell.

"My father was always saying when he had money how he was going to take me on trips and do this and that. And he never did," Stevens recalls. "So after Christine and I got married, we spent $10,000 for a six-month tour around the world. The world has never been the same since."

It was only after World War II that Stevens became a double threat, however—first as a real estate tycoon, then as a Broadway producer. The producer launched a variety of hits—and misses. The tycoon bought and sold hotels and office buildings and developed commercial centers, as if the whole country were his private Monopoly board. In 1951, he headed a syndicate that acquired the Empire State Building for $51.1 million, then the highest price ever paid for a building. "I developed something of a reputation as the greatest deal-closer in the country," Stevens boasts now.

Stevens' reputation as a producer developed somewhat slower than that as a real estate tycoon—although eventually he would have as many as 10 shows a season on Broadway. ("That's more than Merrick ever had," he can't help noting.) His first production was hardly a sure bet: Shakespeare's "Twelfth Night," as staged by the Ann Arbor Drama Festival. Stevens took it to New York in 1949, had the satisfaction of getting an encouraging notice from Brooks Atkinson, and then promptly lost $45,000 on the six-week run. "I didn't know that if you're going to do a revival, you have to have a big name in it," Stevens explains. He has since made the observation an iron-clad principle at the Kennedy Center.

He hit paydirt the following year with a musical version of "Peter Pan," starring Boris Karloff and Jean Arthur, with music by Leonard Bernstein, who would figure both prominently in Stevens' theatrical career ("West Side Story," "Mass") and not so prominently ("1600 Pennsylvania Avenue").

"Everything we did was wrong," Stevens recalls. "We opened in the spring and there was no air-conditioning. Our break-even point was 80 percent of our gross. The thing is, it was a helluva good show. Incidentally, it had the first integrated chorus line on Broadway. People told me it got much more applause on opening night than 'South Pacific.' You hear that kind of applause five or six times in a life. I can tell you it's quite a thrill."

For the next two decades, Stevens would pursue that thrill with a vengeance—as financial advisor to the prestigious Playwrights' Company, which, he says, gave him his theatrical education; as a board member of ANTA; and as one of the founding members (with Robert Whitehead and Robert Dowling) of the Producers' Theater. Although he has never been one to cut his partners out of a production, Stevens is also not one to put off a production if his partners demur. Hence, his multiple alliances. Today, he continues to produce independently of the Kennedy Center, both by himself and in conjunction with Whitehead. "Roger isn't happy, unless he's got five projects going all at once," remarks a friend.

Stevens is proud of his producing record during the 1950s and early 1960s and sometimes will imply that no one else contributed anything of worth during that time. He does have a list of distinguished, if not always profitable, shows. Among them: "The Four-poster," "Ondine," "The Golden Apple," "The Confidential Clerk," "Tiger at the Gates," "Separate Tables," "Bus Stop," "Waltz of the Toreadors," "Under Milkwood," "The Visit," "The Best Man," "Oh, Dad, Poor Dad," and "A Man for All Seasons."

"Of course, when you're producing as many shows as Roger did back then," says a rival producer, "you're bound to have a number of hits. It's the law of averages. But don't forget the other side: that Roger has had more flops in the theater than just about anyone else, living or dead." Lest one be overly mesmerized by the quality of his productions, Stevens is also the gentleman who brought Broadway "Under the Yum Yum Tree," "Everybody Loves Opal" and "A Hole in the Head."

As if theater and real-estate were not sufficiently time-consuming, Stevens, with his reputation as a crack money-raiser, found himself drifting into the world of politics. A political liberal, he was especially intrigued by Adlai Stevenson and for the campaign of 1956, Stevens served as chairman of the Democratic Finance Committee. "I went into politics out of curiosity," he says flatly. "I wanted to see how the inside worked . . . I found out."

Actually, Stevens was acquiring the kind of first-hand experience that would prove invaluable to him as the head of the Kennedy Center. A skilled real estate man, a successful Broadway producer and an adroit political fund-raiser—he had all the bases covered. When President Kennedy went looking for a general trouble-shooter for a proposed national cultural center, Stevens was the natural man for the job.

"I sometimes look back on the 1950s," says Stevens, "and wonder how the hell I did it all. I was making real estate deals in almost every city in the country, producing at least five plays each year on Broadway and raising money for the Democratic party. Well, I always said I could have done two out of three well, but not all three."

Stevens, whom the English press once called The Skyscraper King, would give up real estate, move to Washington, and take on what many believe was the biggest challenge of his career.

THE MAN WHO RESHAPED THE CULTURAL MAP

(By David Richards)

[Second of two articles]

"In the theater world, Roger Stevens is the great father figure," says a young New York producer. "When people are sitting around, trying to figure out how to get a play on and they have come to the end of their wits, someone is bound to ask, 'Does anyone know Roger Stevens?' "

As chairman of the board of the Kennedy Center for the Performing Arts Stevens is obviously in a position to extend a helping hand. Not only does he determine the fare for the Center's theaters—the Eisenhower, the Opera House and the just-opened Terrace Theater—but for the past four years he also has programmed the venerable National Theater, downtown. Until the Warner Theater reopened last December, a Broadway production had to meet with Stevens' approval or it just didn't play here.

And playing the Center does offer definite advantages. More than any other performing arts facility in the country, it seems to have a built-in constituency. Attendance averages 82 percent; four- to six-week runs are par for the course; and actors, who can be impossible in Philly, tend to be curiously cooperative once they get to the Center, focal point for many of the city"s social and political rituals.

Stevens' power extends far beyond the building he was instrumental in getting erected, however. Through Kennedy Center Productions, Inc., the Center's non-profit investing arm, he can and does provide financial help to pre-Broadway shows that run into trouble here. (He sunk $100,000 into "Pippin," which paid off handsomely, and $125,000 into "Annie," which has turned into the most successful Broadway musical since "A Chorus Line.") Sometimes, the mere expression of interest by the Kennedy Center can be a determining factor in a show getting financed.

"Washington was always a decent two-week stand," says Philip Langner, president of the Theater Guild. "Roger and the Kennedy Center have turned it into the most desirable tryout city in the country. It's electric and alive. Every producer I know wants to start his play there."

Frequently, there is a logjam, as a result. When the Theater Guild acquired the rights to Alan Ayckbourn's "Absurd Person Singular," Langner wanted a Washington break-in. "We started asking Roger for a booking in November, 1973. He said it was an interesting play, but he held off for months. It wasn't until July 1974 that he agreed to give us a date for September of that year, and then it was only after we told him that we had signed Richard Kiley and Geraldine Page. He has so many people trying to get into the Center that he can afford to be very choosey."

Despite lots of similar examples, Stevens bristles at the notion that he exercises any more power than your average 68-year-old self-made millionaire. "One of the very reasons I wanted to get out of the business world was that I didn't like determining the fates of other people," he says, a sudden flush of pique lending color to his face, which is usually a wintry gray. "At the time I purchased the Empire State Building, I had as many as 25,000 people working for me. I didn't want to have to worry about their damn lives, about whether or not this guy's wife was sick with TB or that guy was overdrawn at the bank. So I got out. I always liked to put together a deal for the sake of a deal, absurd as that may sound. But the daily operation of business—the buying, the selling, the chiseling—I found it . . . boring. I'm always reading about this great power I have. Nonsense!"

If a producer wants to bring a play to Washington and Stevens doesn't like it? "He can take it to Boston, instead," Stevens snaps. Subject closed. The mere reference to the Center as a booking house, in fact, is guaranteed to goad Stevens into a rare, but imposing, exhibition of displeasure.

"There is no doubt that Roger is the right producer in the right theater at the right time. God knows how, but he is largely in tune with the Kennedy Center audience," says one observer, who, when prodded, characterizes that audience as conservative, middle-aged, well-to-do and less concerned with theater, perhaps, than with promenading up and down the Grand Foyer at intermission. That, of course, is an exaggeration. Stevens will invest considerable time and energy in a "Semmelweiss" or a "Wings," plays not exactly tailored for mass consumption. By the same token, he has given Washington two productions of Noel Coward's fluffy "Present Laughter," and seems to have a high tolerance for the mustier forms of the theater plays like "The Jockey Club Stakes," "The Headhunters," "Do You Turn Somersaults?," "First Monday in October," "The Last of Mrs. Cheney" and "Gracious Living."

Stevens' critics—although not as blunt as Stanley Kauffmann, who described the Center as "a big, bad kitchen" and Stevens as "the dullard chef cooking up masses of flat grub for Washington"—still tend to be dismayed by his professional tastes, which are quixotic when they are not reactionary. Stevens doesn't put on a "season" of plays, they say, which would imply intriguing connections between the various works. He simply puts on one play after another. Finding the guiding intelligence behind them is not easy.

Stevens himself has neither the inclination nor the patience to discuss his "artistic direction" of the Center. For one thing, he dislikes the term itself. "This reminds me of a conversation between Lennie Bernstein and Alvin Ailey before 'Mass' opened," he says. "Lennie is a great intellectual, and he was asking Alvin how he choreographed. 'I don't know,' Alvin said. 'I just get those people up there on the stage and I tell them to move this way and then that way.' And Lennie said, 'Yes, but the theory behind it. You must have a theory.' And Alvin said, 'Not really. All I do is get them up there and move them around so they look pretty.'

"Well, it was one of the greatest conversations I ever heard in my life. Really very funny. I certainly wouldn't want to equate myself with either of those men. They're both geniuses. My point is: That's the way

I work. I don't have any deep theories. I just mix up the plays and put them up there. I try to find the best playwrights I can, and I try to do different kinds of plays because I think Washington demands a varied diet, and basically . . . well . . . that's it."

Those who know him well say he can be prudish. He did not want a touring production of "Equus" to play the Eisenhower (it went to the National, instead), leaving some of his staff members to speculate whether it was the nudity, the language or the vaguely homosexual undertones of the work that disturbed him. And yet Stevens subsidized the young and unknown Harold Pinter, in return for which Pinter now automatically offers Stevens the first American rights to his works. If Stevens objects to such ambiguous and sexually unsettling Pinter plays as "The Homecoming," "Old Times" and "No Man's Land," he's certainly not letting on.

As a rule, he shies away from contemporary playwrighting that suggests there may be a deep flaw in mankind or rot in the system. Having pulled himself up by the bootstraps, Stevens has no patience with whiners. Yet his favorite playwright is Pirandello, whose notions of the relativity of truth and human personality constitute a cornerstone of the modern theater. He also relishes Duerrenmatt ("The Visit," "The Physicist"), whose view of humanity is black and bitter.

"Roger's tastes are stuck back in the 1950s when he was a big Broadway producer," says a rival, who insists on remaining nameless. "His loyalities lie with the performers and playwrights he worked with back then. Deborah Kerr was wonderful in 'Tea and Sympathy,' but 'The Last of Mrs. Cheney'? Come on! Poor Samuel Taylor hasn't written a decent play since 'The Pleasure of His Company,' but Roger keeps putting them on anyway. And I really think the only reason he got involved in that awful 'Odyssey' was because 'The Golden Apple' won all those awards for him in the 50s." (Both musicals were based on Homeric legend.)

This, too, however, may be only partially true. Says Richmond Crinkley, once Stevens' assistant and now executive director of the Vivian Beaumont Theater in New York: "Roger is tremendously accessible. He will talk to anyone or read anyone's script. Usually, you have to give him two, because he loses one. But he's one of the least remote producers I know."

Always on the lookout for new playwrights, Stevens seems genuinely distressed that the species is not as plentiful as it was in the 1950s, when he was financial advisor to the Playwrights' Theater. He often accompanies his wife Christine, an ardent defender of the rights of animals, to wildlife conferences around the world, using the occasion to do a little scouting himself. On a recent trip to Australia, he picked up "Players." In East Berlin, he checked out the Berliner Ensemble. He regularly shops in London and faithfully gives American productions to the plays of Tom Stoppard ("Travesties," "Jumpers," "Dirty Linen" and "Every Good Boy Deserves Favour").

According to Robert Whitehead, who has been Stevens' Broadway partner for 25 years, "Theater is really totally different for us. I tend to do only two or three plays a year, but I believe in them deeply. They're almost an extension of something I feel about life and I take a personal responsibility toward them.

"I don't think Roger necessarily sees plays as an expression of some part of himself. For one thing, he does too many. He'll be working on four or five projects at the same time. If one doesn't pay off he figures another will. I think he truly enjoys the gamble, the roll of the dice.

"I was sick over the reception 'A Texas Trilogy' got in New York. I'd lived with that one intimately and I bled profusely when it closed. Roger was more objective. His attitude was, 'Let's get on to something else.' He's not interested in wasting time on postmortems or recriminations. It's one of his best qualities." (Stevens' comment: "I just don't bleed in public.")

Stevens does have a predilection for stars and recognizes that their drawing power is crucial to his cause—filled houses. "Sometimes Roger will find a particular play more appealing than it might otherwise be, because it has a prominent star connected with it," Whitehead admits. The Kennedy Center has housed its share of star vehicles, some more rickety than others, chiefly to show off the talents of such performers as Mary Martin, Ingrid Bergman, Pearl Bailey, Elizabeth Ashley, Jason Robards, Henry Fonda, Alexis Smith, Yul Brynner or Wilfrid Hyde-White. "It seems to me that performers are just as important as writers," says Stevens. "Is there anything worse than a bad Shakespearean production or better than a good one?"

Whether this makes for a national center is open to question. Joseph Papp, producer of the New York Shakespeare Festival, doesn't think so. "You'd have to have black, Puerto Rican, Mexican and Indian representation to call it a national cultural center," he says. "That's not the case. Nor does the Center represent what's happening with young writers across the country. Here it is, located in the capital, a city that deals with life and death issues, but it doesn't reflect that at all. It is what it is—one of those institutions of a certain size that cater largely to the conservative appetites of a white, middle-class audience and confirm its views of life. Could it be something more? I don't know. A certain conservatism is implicit in those big institutions—especially one associated indirectly with the government, as the Center is. Those large houses have to be filled. And middleground wares are what fill them.

"Of course, it's very easy to pick on the Center. It does serve a function and it stimulates theatergoing in the most general sense. I don't think you should downplay that at all. Stevens is an honorable man. He's keeping that place alive, and I know how hard that is."

Stevens' intimates find him charming and scrupulously loyal. However, Stevens himself recognizes that "for most people, my charm has always been my ability to raise money. Well, that doesn't bother me."

He possesses a resolve of iron and a sturdily oldfashioned belief that if you take on a job, you see it to the end. It was President Kennedy who summoned Stevens, then one of the country's most successful real-estate magnates to Washington and charged him not only with formulating plans and policy for a national cultural center, but also raising the money for it. It was slow going. After Kennedy's assassination, President Johnson affirmed his commitment to the Center, which would become a memorial to the slain president. (He also named Stevens as the head of the National Council on the Arts, which was to stimulate the country's arts groups with what now seems a risible $10 million yearly budget.)

Stevens receives no pay as chairman of the board and until recently picked up the considerable travel and entertainment expenses that his position entails. He professes a complete disinterest in money. Since "my daughter doesn't care about a big inheritance," he claims he has been living off his capital for the past 20 years. What money he does still earn comes mostly from investments in Seattle, where he has approximately 40 percent of the downtown office buildings on a long-term lease.

He frequently works 60-hour weeks, and although he hobnobs with ambassadors and politicians, all eager to bask to the reflected glory of the Center, he remains a creature of minimal social graces. At two successive luncheon interviews, he managed to spill something down his front. "Give me a plain colored tie and I'll do it every time," he railed overlooking the fact that all the ties he wears are plain-colored.

Not too long ago, as Stevens was leaving his office at the Center, his secretary handed him a piece of paper. As is customary, it had his evening schedule written on it. "Okay," said Stevens, reading it. "I've got dinner at the White House." Then with a perfectly straight face, "What else do I have on?" This kind of unintentional blitheness can make him enormously likeable.

At an age in life, when most men of his achievements have begun to look upon themselves as park monuments, Stevens is unconcerned with the past. "The past is dead and gone and there isn't a damn thing you can do about it," he says. "Anyway, I guess I've always been too busy to think much about the success or the failure of my actions. I'd prefer to think about what I want to do, not what I've done."

What he wants to do for the Center is solve, once and for all, the nagging bond issue. The cost of building the Center eventually ran to $73 million, of which $20.4 million was in the form of Treasury bonds, used to finance the underground parking garage. The interest on those bonds, some $2.2 million, comes due this year and the Center is not in a position to pay. Stevens is willing to settle on the principle at the rate of $1 million a year, but would like to see the interest dropped. The proposal will require some vigorous lobbying.

He would like to form a theater company with the best students from the American College Theater Festival, who would use the Terrace Theater as home base and tour the country. "That'll take some money, too" he says. He envisions a summer resident opera company for the Terrace Theater, as well.

He would like to see the day when every play at the Center is a new play.

Then this least probable of showmen adds, "I think I'd also like to have a few more hits before I roll over and fold up."

And somehow you sense that's what he really wants most of all.

ORDER OF BUSINESS

The PRESIDING OFFICER. What is the will of the Senate?

Mr. SARBANES. 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 (Mr. LEVIN). Without objection, it is so ordered.

SENATE RESOLUTION 61—PROPOSED AMENDMENT OF THE STANDING RULES OF THE SENATE

TIME LIMITATION AGREEMENT—ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the amendment by Mr. STEVENS tomorrow, there be a 10-minute limitation for debate on the amendment by Mr. HELMS; that time to be equally divided between Mr. HELMS and the junior Senator from West Virginia; and that a vote then occur in relation to the Helms amendment.

Mr. STEVENS. Reserving the right to

object, and I shall not object, it is my understanding that the majority leader is reserving his option on that to make a motion to table. It would be our hope, of course, that would not occur.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. But I want to make sure there is that understanding.

It is my understanding this is Senator HELMS' desire to have that type of time agreement on his amendment.

It is the amendment that deals with page 1, line 3, I might add, and to considering the measure not more than 8 hours per calendar day. That is the amendment we are talking about, No. 18.

Mr. ROBERT C. BYRD. That is true.

What it would do, it would guarantee, if Senators were so disposed, there could be a minimum of 12½ days of debate on a measure after cloture is invoked on it.

Of course, at the close of a session, an adjournment sine die at the end of a Congress, it could mean the death of a piece of legislation on which the Congress might have spent months or even years of energy.

So, just merely by providing that no more than a certain amount of hours could be spent in any one day on a measure, it automatically stretches out the time for debate after cloture.

Mr. STEVENS. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I might state that I will have an amendment tomorrow—in the event my amendment is not adopted, I hope it will be adopted, but if it is not—to remove from S. Res. 61 the provisions that would permit the decrease in time, and I would be happy to discuss with the majority leader tomorrow the limitation of time on that so we could vote on that rather promptly.

Mr. ROBERT C. BYRD. Very well.

The PRESIDING OFFICER. Is there objection to the pending request?

Mr. STEVENS. There is no objection.

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

Mr. ROBERT C. BYRD. Mr. President, I will be delighted to discuss the matter with the distinguished Senator. I am sure other Senators will want to enter into that discussion.

I want to express appreciation to the Senator from Maryland (Mr. SARBANES) for his very active participation in the discussion today and his assistance.

Mr. President, may I express the hope in closing that the Senate can complete its action on Senate Resolution 61 tomorrow, and if it does that it would be my plan then to go over until Monday.

RECESS TO 9:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:15 a.m. tomorrow.

The motion was agreed to; and at 5:54 p.m., the Senate recessed until tomorrow, Thursday, February 22, 1979, at 9:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 21, 1979:

FEDERAL ELECTION COMMISSION

John Warren McGarry, of Massachusetts, to be a member of the Federal Election Commission for a term expiring April 30, 1983.

Max L. Friedersdorf, of Indiana, to be a member of the Federal Election Commission for a term expiring April 30, 1983.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, February 21, 1979*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, B.D., offered the following prayer:

Almighty God, as citizens of a restless world, only too aware of the pressures of change and conflict, give us the sensitivity to hear your still, small voice even in the midst of the clamor of competing events.

Give us, we pray, from the depths of our being, a moment of calm, that Your word of strength and power will give us the confidence to trust in Your love, to believe in Your name, and to act for the benefit of humankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THE MARCH 1 REDUCTION IN FOOD STAMPS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, the day of crisis for poor seniors and disabled citizens is rapidly approaching. On March 1 the new food stamp regulations will take effect. Let me illustrate for a moment the impact on a couple, a husband and wife.

The husband is 84 years old and blind. The wife is 77. They have total income of $380 a month. Rent and utilities take $195 a month of this. Under the present program, Mr. Speaker, they do receive $50 a month in food stamps. Starting on March 1 the $50 a month is reduced to $15.

Mr. Speaker, I once again urge my colleagues to look at the "Dear Colleague" letter they have received outlining the bill that can change this, and to contact my office and give their support to the seniors and disabled they represent.

I yield back the remainder of my time.

□ 1505

INCREASE INTEREST RATE CEILING ON SAVINGS BONDS TO 7 PERCENT

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, when the House considers the Public Debt Limitation, H.R. 1894, I hope the rule will make it in order for me to offer the following amendment:

Page 2, line 15, strike out "6½ per centum" and insert in lieu thereof "7 per centum".

This amendment would permit the Treasury to increase the interest payment on series E bonds to 7 percent. The bill would limit the increase in E bond interest to 6½ percent.

One out of every three Americans hold E bonds. More than 16 million Americans buy $8 billion in E bonds each year. As of January 1979, $80 billion in E savings bonds were outstanding.

Over the past 7 months, redemptions have consistently exceeded sales. A record was hit in January 1979 when redemptions exceeded sales by $533 million. If redemptions continue at this rate, it could cause a tremendous upheaval in handling the Federal debt.

E bonds are the average citizens participation in the national debt. It is simply unfair to deny a reasonable rate of return commensurate with the cost of all other forms of public borrowing.

□ 1510

JUST WHAT IS INFLATION?

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, the other day I questioned whether a false definition of inflation might not have hobbled this House in its attempts to bring this greatest of social evils under control.

The memorable Government ads of a few years ago told us that inflation is caused by greedy business, by pushy labor unions, by piggy consumers. Come to think of it, that is pretty much what Mr. Bosworth and his hardy band of price and wage controllers at the Council on Wage and Price Stability are still telling us.

But what are the facts?

Inflation ravaged our Nation in the late 1700's, under our predecessors, the