The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. Howell Heflin, a Senator from the State of Alabama.

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

Eternal Father, we thank Thee for the moment of prayer when the day is new, the mind is clear, and the soul receptive to Thy presence. Move among us, O Divine Spirit, to lighten our burdens, lift our spirits, warm our hearts, and direct our actions. When hours grow tedious or tension is high, still give us Thy quickening power and Thy refining and steadying grace. When perplexity or wilderness overtakes us and we are unsure of the course to follow, guide us through the difficulties to a victorious conclusion in accord with Thy will. So may we "serve the present age our calling to fulfill." And when the day is ended may we rest with Thy benediction upon us. 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. MCGUINNESS).

The assistant legislative clerk read the following letter:

U.S. Senate
President pro tempore

To the Senate:

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

WARREN G. MAGNUSSON
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER
The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL
Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date. The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONVENING SENATE ON JUNE 11, 12, 13, 14, AND 16, 1980, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today and tomorrow, Wednesday, and the next day, Thursday, and the next day, Friday, the Senate stand in recess, respectively, until the hour of 9 a.m. tomorrow, Thursday, Friday, and Saturday, and that if the Senate is in session on Saturday, when it completes its business on Saturday it stand in recess until the hour of 10 o'clock on Monday next—any event, when the Senate meets on Monday next, it meet at 10 a.m.

Mr. NUNN. Mr. President, reserving the right to object, and I will not object—Mr. ROBERT C. BYRD. Mr. President, I amend my request insofar as the daily meeting is concerned, to change it to 10 a.m. rather than 9 a.m.

Mr. BAKER. Mr. President, the right to object—and I will not object—Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

Mr. President, I do not know whether we will get cloture today or not, but I hope we can dispose of this matter with reasonable promptness and without having to extend it into next week. I announced on the floor that I hope Members on this side will vote to invoke cloture at an early time, and I do hope that. But I must tell the majority leader in all candor, as I told him privately yesterday, it is going to be difficult to do. I will continue to vote for cloture. I will continue to try to bring this matter to a conclusion as speedily as possible, but I hope that on the second vote, if not on the first, we can get cloture and proceed to final disposition without having to continue the consideration and debate into next week.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

I, too, have doubt that cloture will be achieved today. There are Senators who customarily wait until the second vote, the second cloture vote, before voting for cloture, and I am sure that is going to occur again in the case of some Senators.

I hope they will, however, consider the fact that 2 days passed before the cloture motion was entered on this occasion, thus allowing 4 days of debate before the vote, before the day on which the vote occurs.

Mr. President, will the Chair put the request?

Mr. BAKER. Mr. President, I have no objection to the request.

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

MILITARY REGISTRATION
Mr. ROBERT C. BYRD. Mr. President, the debate on House Joint Resolution 521 began on Wednesday, June 4. This measure makes available by transfer $13.295 million for the Selective Service System for the current fiscal year. Today the Senate will vote on the question of invoking cloture. It is my hope that we will get the necessary 60 votes to limit debate on this measure.

Considerable difference of opinion exists on the need for premobilization registration. Arguments have been made—and reiterated—on both sides of this complex and emotional issue. The debate has been reasoned and thorough. I am confident that each of us has had ample time to become familiar with the issues.

Additional days given to unlimited debate would not, I believe, serve the interests of the Senate. Having had time to review the facts and weigh the arguments, our primary interest is to express the will of the Senate by voting this measure up or down.

On Friday, when I first filed a cloture motion to limit debate on this resolution I noted that I usually offer cloture motions on the very first day of debate. I did not do so in the case of House Joint Resolution 521, which was before the Senate 2 days prior to my offering the cloture motion. As of today the Senate has had 4 full days to debate this measure.

Even before the current debate, both the Senate and the House devoted considerable time to examining both peacetime registration and the overall matter of our manpower requirements and military preparedness.

Last year the Senate Armed Services Subcommittee on Manpower and Personnel held 3 days of intensive hearings and compiled extensive evidence supporting peacetime registration. Additional testimony on Selective Service registration was received by the committee during hearings on S. 428, the Department of Defense authorization bill for fiscal year 1980. This information was compiled in a set of hearings totaling 239 pages, and those hearings have been available since last fall.

On September 20, 1979, the Senate
met in a closed session to consider classified information relating to the problems of wartime mobilization without peacetime registration. The closed session featured an extensive, substantive debate on the issue of our manpower readiness.

Early last year, the House Armed Services Committee, during its consideration of the Department of Defense authorization for fiscal year 1980, held hearings on the current status of our military personnel. Military registration was discussed under this category, and it filled over 200 pages of the committee's published hearings.

The House heard arguments on House Joint Resolution 521 over 1 month ago, and favorably reported House Joint Resolution 521 to the full committee. The subcommittee compiled over 200 pages of testimony and facts during its consideration of the measure. The full Appropriations Committee conducted 4 days of markup sessions, during which arguments—pro and con—received considerable attention. The committee ordered the measure favorably reported with an amendment on May 13. The report has been available for nearly 3 weeks.

The House has approved this resolution, but the Senate continues to debate it. While we continue to debate it, the message from the American public is clear—most Americans favor peacetime registration.

Letters which I have received from my constituents in West Virginia are indicative of the public support for military registration.

For example, Miss Brigetta M. Crimm, a student attending West Virginia University, writes: I believe that the United States should be ready to handle any conflict that may arise between other nations. I also believe that President Carter has the power to reinstate draft registration because the U.S. military is not completely capable of defending the U.S. in case of war. For these reasons alone, I am in support of draft registration.

She closes her letter by saying: I hope that you will vote for draft registration. Americans need to stand behind their country.

Another letter, from John and Teresa Boggs of Charmco, W.Va., reads: I think it is time we get our defenses built up, starting with reinstallation of registration.

And a letter from Barbara Elwell in Ripert, W.Va., reads: I feel it is very necessary that we have the manpower readily available in case of an emergency. The days lost by having to register in emergencies has been far too long. I believe the money spent for this would be well-used.

These letters express what I believe to be the sentiment shared by a majority of Americans—their recognition that our military preparedness needs to be strengthened and their willingness to share in the defense of the country. And most Americans agree that peacetime registration is a step in the right direction.

Given these circumstances—given the fact that debate on military registration has been going on for over 1 year; given the fact that there are hundreds and hundreds of pages of testimony, facts and figures on the status of our military personnel and our defense preparedness; given that the House Armed Services Committee, the House Appropriations Committee, and the Senate Appropriations Committee all recommend that peacetime registration be reinstalled; given that the House has already approved House Joint Resolution 521—I think it is imperative that the Senate move to limit debate on this measure so that we can begin considering amendments, and move toward taking a final vote—up or down. I urge my colleagues to vote for cloture on this first vote.

The ACTING PRESIDENT pro tempore. Who yields the time?

Mr. BAKER. Mr. President, was there no leader time this morning?

Mr. BAKER. Mr. President, yes, there was 5 minutes each for leader time.

DEATH OF TENNESSEE CHIEF JUSTICE JOE W. HENRY

Mr. BAKER. Mr. President, it was with deep distress that I learned of the passing of the chief justice of the supreme court in my home State of Tennessee, the Honorable Joe W. Henry, on Monday.

Justice Henry was born on September 20, 1916, in Lynnville, Tenn. He attended Middle Tennessee State University and received his law degree from Cumberland University. He served in the Tennessee House of Representatives and was adjutant general of Tennessee from 1953 to 1959.

He was a member of the house of delegates of the American Bar Association and president of the Tennessee Trial Lawyers Association. I was proud to be a member of the Tennessee Bar Association when Justice Henry ably served as its president.

I loudly applauded Justice Henry when he became a member of the first elected supreme court in Tennessee and later when he was elevated to the position of chief justice in 1977.

I can vividly recall the day that Justice Henry, then a practicing attorney, came to Washington to testify on no-fault insurance. In his own resonant way, he termed no-fault as "the Trojan Horse in the House of Tort."

Justice Henry will be sorely missed in Tennessee. He was a skillful attorney, a dedicated public servant and a conscientious jurist. I extend my deep sympathy to his family during this time of sorrow.

Mr. President, I have no further need for my time under the standing order. I am prepared now to yield it back. I see no one else in my time.

Unless the majority leader has any need for it, I am prepared to do that.

Mr. ROBERT C. BYRD. Mr. President, I do not have any need for it. I thank the minority leader.

Mr. BAKER. Mr. President, I thank the majority leader. I yield back any time remaining under the standing order.

TRANSFER OF FUNDS FOR THE SELECTIVE SERVICE SYSTEM

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 521) making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

The Senate resumed consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I understand the majority leader has, at least temporarily, given me control of the time with reference to the pending matter. The Senator from Georgia (Mr. Nunn) is here. He and I can utilize this control of the time insofar as it needs any control; it is not a matter of wanting to control it.

If the Senate from Georgia wishes to use some time now, I would be glad to yield such time as he may use.

Mr. NUNN. Mr. President, I thank the chairman. I would prefer to wait until Senator Pressler arrives. We have a debate that he would like to engage in. I think I better save the time, because I have two or three Senators that would like to speak. Senator Jackson indicated that he has some remarks he would like to make; Senator Warrick would like to make some remarks, as well as Senator Tower. So I would like to save the time until Senator Pressler arrives, at which time I will have a dialog with him.

Mr. STENNIS. Mr. President, may I suggest to the Senator from Georgia (Mr. Hatfield) if he wishes to use some time now?

Mr. HATFIELD. Mr. President, I understand the pending matter is the amendment of the Senator from Georgia. So I assume that he would like to present that amendment.

Mr. NUNN. Mr. President, I would like to just get an idea from the Senator from Oregon about his feelings on a vote on that amendment between now and 11 o'clock, because that would make a difference as to the debate. Does the Senator envision having a vote on that?

Mr. HATFIELD. Mr. President, I would like to have the amendment argued. I cannot very well predict what the situation is. I have to understand what the amendment proposes to do, and for what. I do not think we could make any assumptions unless we hear what the business is.
Mr. NUNN. Mr. President, if the Senator from Oregon is not disposed to indicate his willingness to have a vote on the amendment at this time, I think it is a matter needing the attention of the entire Senate and not just the Senator from Georgia and the Senator from Oregon. I do not understand why the Senator from Oregon is so reluctant to go ahead and present his amendment.

Mr. NUNN. Mr. President, the Senator is not reluctant to go ahead. We have a cloture vote at 11 o'clock and the question is whether we spend our time.

Mr. HATFIELD. Mr. President, who has the floor? Mr. President, do I not have the floor? Mr. President, may we have order?

The Acting PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may we have order?

The Acting PRESIDENT pro tempore. I believe we have order now.

Mr. HATFIELD. Mr. President, I believe the procedure is that one person speaks at a time. I would like to say to the Senator from Georgia that if he is not interested in pursuing his amendment, that is perfectly all right. But I think it ought to be clearly understood that is his choice and not my choice. If the Senator from Georgia is not interested in, no need of that amendment, then let other matters be taken up.

I think it also ought to be pointed out, and I would like to make it clear for the record because of, as I see it, the Senator from Georgia forecloses any other consideration of any other amendment before the cloture vote. It had been my intention with Senator Kasem, of Kansas and Senator Lummis, of Michigan that we would consider other amendments, as well as an amendment by the Senator from Iowa, Mr. JESSEY. Now that the Senator from Georgia has effectively foreclosed any other amendment to be considered before closure, I would think he would be at least a little bit compelled to pursue his amendment and discuss it.

Mr. NUNN. Mr. President, I would say to my friend from Oregon, if I have the floor, that I am perfectly willing to entertain into a unanimous-consent agreement to vote on the Jepson amendment before the vote on the Nunn amendment. I am also prepared to enter into a unanimous-consent vote to consider the Kassebaum amendment before the Nunn amendment, if the Senator from Oregon is so disposed, provided it is done before 11 o'clock.

Mr. HATFIELD. Mr. President, I think this again shows the true strategy from the Senator from Georgia, which is that he has sought effectively to foreclose and shut off any meaningful consideration of any amendment. He offers now not to enter into unanimous consent, I think, ought to be taken on the face of it. It is no offer at all. It is 20 minutes after 10 and he says he is not interested in pursuing his amendment anymore. He is not here—nor is there adequate time to debate it.

Mr. NUNN. Mr. President, I am perfectly prepared to vote on the Nunn amendment at this time if the Senator would like to vote.

Mr. HATFIELD. Mr. President, this badminton game of throwing the shuttlecock back and forth between the two Senators is leading to no place, because I think it is very interesting that the Senator is so reluctant to take up the amendment that he was so anxious to offer last night.

If the Senator is not willing to discuss his amendment at this time, then let him choose the subject he is willing to deal with. It is in that type that we have the shortage; it is that type that I have tried to describe in practical terms as being those who you cannot get merely with money.

There is another point I want to make which I did not cover yesterday. I said that time has proven very clearly that the voluntary system for this massive weapon commitment is not working, as well as the needs that are connected with our own economy, this exclusively volunteer system just does not meet the needs. I want to make it clear that it is true even though the military services themselves have done the very best they could. I believe—making some allowances, of course, here and there, I yield myself 2 more minutes, Mr. President.

Mr. NUNN. Mr. President, the Senator from South Dakota is now entering the Chamber for our dialog. Will the Senator yield to me for 1 minute?

Mr. STENNIS. If I may yield under those conditions, I will come back to my point. I yield 5 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from South Dakota and I have had a very important conversation concerning this whole debate. I will yield to him for the purpose of a statement or a question, or both.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I would like to quickly raise a few issues...
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that trouble me concerning the proposed reinstitution of selective service registration before we proceed to a cloture vote. These are points which may not have been made quite a number of them are legitimate not only to me, but also to millions of young people who will be subject to selective service registration and I do not want to miss this opportunity to bring them up.

Mr. President, I want to stress that there was a great feeling during the Vietnam era that the Vietnam draft was unfair to the young people of this country. There were numerous proposals, all written that show that war was fought primarily by lower income persons and by persons of lower educational backgrounds.

There was also a feeling at the time, and indeed I served in the Army in Vietnam, at some of the graduate schools and elsewhere, that the draft could be avoided through certain steps if one was wealthy enough or able to go on to graduate school or through some other type of exemption. Therefore, that generation of young people lost confidence in the draft and in Government. Both those who were not called and those who were called were very cynical about the whole system.

In order to support this registration proposal, which I understand is the first step before classification and induction, I would have to be assured that there would be a special effort to make it a fair draft-one that will not just draft certain social groups or certain educational groups with lower income backgrounds.

I certainly do not seek a commitment here to all the particular criteria, but my own thinking is along these lines:

First, people should be subject to a draft for only a limited period of 1 or 2 years of vulnerability.

Second, induction should be by a pure lottery system so that all individuals would be equally subject to the draft.

Third, there would be rare exemptions from selective service.

Fourth, the registration could be arranged according to specific standards spelled out in the Selective Service Act.

The concept of duty and service to our Nation can be preserved and effective if we guarantee these criteria.

Mr. President, on the basis of this, and keeping in mind the general points I have mentioned, I wonder if Senator Nunn or any other supporter or opponents of this bill can give me any assurances that they also will support me in what I am recommending.

Mr. Nunn. Mr. President, if I can respond briefly to the Senator from South Dakota, I want to thank him for raising specific points about this joint resolution. Indeed, such questions have raised in connection with the Selective Service System. Senator Pressler is one of the few people in the Congress who served in the Armed Forces in Vietnam during the war there, and I can certainly appreciate why he feels keenly and strongly about this registration. We are lucky to have him in our Senate. I am sure that, as this debate goes on and as we talk, the future, about other manpower problems including the problems of classification, he will play a very vital and important role in our deliberations. Let me assure the Senate that I do not support individually and I do not believe the Armed Services Committee supports returning to any draft like that used during the Vietnam era. It has never been Vietnam. I would be interested in the view of the Armed Services Committee to put the old Selective Service apparatus back in place as it existed during Vietnam.

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

Mr. STENNIS. Mr. President, I yield an additional 3 minutes.

Mr. Nunn. I agree with the Senator from South Dakota that the registration system and any return to the draft, if subsequent events should require a draft, should be as universal as possible. We need a thorough overhaul of the old classification procedures and appeal procedures to insure that the evils that existed in the Vietnam period do not recur. I hope the Senator from South Dakota will provide us with his testimony when the hearings are held on these needed changes. Again, I assure him that his views will be given full consideration and any deliberations we have on this matter.

The Senator from South Dakota may be aware that last year, the Armed Services Committee reported S. 109, which is purely pending in this Senate. In that committee report, we specifically recommended that the President be prohibited from instituting classification for military service, unless a real emergency occurs, until after the classification and exemption process has been completely restudied and revamped. I stand by that position individually and I believe that our committee would still have that view. I believe that a revamping can and should be effected and achieved before any draft will be allowed to go into effect.

Mr. President, if the Senator from South Dakota has any further questions, I shall be glad to try to address them. I know the Senator from South Carolina has indicated he would like to comment on this.

Mr. PRESSLER. Mr. President, I should like to hear the comments of the Senator from South Carolina.

Mr. THURMOND, Mr. President, first, I commend the able Senator from South Dakota for being the only Vietnam veteran in the Senate. I can understand his concerns. I want to assure him that, in operation, the "selective" or "voluntary" registration this registration will be a fair and equitable draft. I realize that, during the Vietnam war, there were very few volunteers. There were a lot of complaints and a lot of people were dissatisfied with the way it was handled. I do not think that will occur again. I want him to know that I shall do everything I can to see that whatever draft follows will be fair and equitable to all people.

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

Mr. President, I want to stress that the history of Selective Service System was that they had to be selective. They could not accommodate the total numbers that would be available. Training stations and other such logistical support base are just nonexistent. It has never been existent. Concurrently, the Selective Service was specifically designed in order to be selective and extrapolate out of the manpower pool numbers that they could not ever raise, train and incorporate in the military service. Also, it provided the flexibility, depending on how the war was going, whether they need to accelerate or whether they need to let up. If the Senator from South Dakota is going to buy this kind of pig in a poke that has been offered him this morning, that, somehow, we are going to guarantee the Senator a fair and equitable draft system, I think all the Senator...
from South Dakota has to do is look at the very basic statistics, because what I quoted does not even include women. That issue has not been settled.

We have in excess of a million in our state today, 1.3 million Reserves. Does the Senator think that we are going to make a fair and equitable Selective Service, which must mean practically universal, that we are going to make a fair and equitable system in which there is true equality. Certainly it would be difficult to design a draft system which meets all hypothetical standards of equity and fairness. I recognize the difficulty of this and realize which the Senator refers. It is important that we carefully evaluate these issues in making essential improvements in the Selective Service System. My initial objective is to get away from the blatant and gross inequities we had during most of the Vietnam era. Toward the end of the Vietnam war, the System was improved substantially. I believe that it is necessary to make further substantial improvements. The number of individuals required by the military as the Senator from Oregon says, may change from one period to the next. Not all eligible persons would be needed at all times. But, for example, if people in categories were chosen by lottery, we could involve everybody, except in the most extreme circumstances. But, to restate my position, we must devise a system that would be fair, certainly, than we had in the Vietnam era. I do not believe anybody could devise it, it could not be perfect. No system would be perfect, but we must at least work toward that goal. For example, if we needed so many mechanics, 150,000, or 100,000, or 50,000, we would have to devise a system that if it is going to be fair and equitable. Otherwise, it is going to be discriminatory. It always has, always will be.

In the first one, in the Civil War, if you had $300, you could go down and plunk your $300 down and you could escape that service in the Civil War. World War I, World War II, Vietnam, by the very logistics of the numbers we are dealing with, it will be discriminatory. It cannot be any other way.

Consequently, when the Senator is assured this morning, it is really one kind or one step below, campaign promise in the believability or the quality of that kind of response the Senator got this morning. I think it is a very interesting exercise here in fantasy.

I hope the Senator realizes that no system of draft or compulsory military service can be other than discriminatory. You can take the 4 million we have and if you deducted a quarter of a million for physical incapacity or inability to pass a physical examination, you would have 1,500,000 immediately. Then, when you add the 18-year-olds, then you would have another group of people. If you add women, you would have another increment. So by the time you consider all these increments, you have a totally impossible pool with which to be other than discriminatory.

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

Mr. HATFIELD. Yes.

Mr. PRESSLER. Let me first say what a high regard I have for the Senator from Oregon and for his analysis of this issue. I greatly appreciate the tremendous effort he has put into this important debate.

Any system is going to have certain inequities. I suppose we could find something wrong with the procedures we use in the U.S. Senate, in career assignments or the seniority system, or the system of grading in schools, or methods used in career promotion. It is difficult to think of any human endeavor in which there is true equality. Certainly it would be difficult to design a draft system which meets all hypothetical standards of equity and fairness. I recognize the difficulty of this and realize which the Senator refers. It is important that we carefully evaluate these issues in making essential improvements in the Selective Service System. My initial objective is to get away from the blatant and gross inequities we had during most of the Vietnam era. Toward the end of the Vietnam war, the System was improved substantially. I believe that it is necessary to make further substantial improvements. The number of individuals required by the military as the Senator from Oregon says, may change from one period to the next. Not all eligible persons would be needed at all times. But, for example, if people in categories were chosen by lottery, we could involve everybody, except in the most extreme circumstances. But, to restate my position, we must devise a system that would be fair, certainly, than we had in the Vietnam era. I do not believe anybody could devise it, it could not be perfect. No system would be perfect, but we must at least work toward that goal. For example, if we needed so many mechanics, 150,000, or 100,000, or 50,000, we would have to devise a system that if it is going to be fair and equitable. Otherwise, it is going to be discriminatory. It always has, always will be.

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Consequently, when the Senator is assured this morning, it is really one kind or one step below, campaign promise in the believability or the quality of that kind of response the Senator got this morning. I think it is a very interesting exercise here in fantasy.

I hope the Senator realizes that no system of draft or compulsory military service can be other than discriminatory. You can take the 4 million we have and if you deducted a quarter of a million for physical incapacity or inability to pass a physical examination, you would have 1,500,000 immediately. Then, when you add the 18-year-olds, then you would have another group of people. If you add women, you would have another increment. So by the time you consider all these increments, you have a totally impossible pool with which to be other than discriminatory.

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

Mr. HATFIELD. Yes.

Mr. PRESSLER. Let me first say what a high regard I have for the Senator from Oregon and for his analysis of this issue. I greatly appreciate the tremendous effort he has put into this important debate.

Any system is going to have certain inequities. I suppose we could find something wrong with the procedures we use in the U.S. Senate, in career assignments or the seniority system, or the system of grading in schools, or methods used in career promotion. It is difficult to think of any human endeavor
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dition, and it can be greater if we pay people adequately and do not force them to come out of it.

Mr. LEAHY. Will the Senator yield?

Mr. HATFIELD. I am happy to yield 5 minutes to the Senator.

Mr. LEAHY. Mr. President, I ask unanimous consent that David Julysan of my staff be granted privilege of the floor throughout debate of this debate and the vote on cloture.

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

Mr. LEAHY. Mr. President, the key issue in the debate on registration and a possible draft is fulfillment of our manpower goals with enough qualified people to defend our country.

If this Nation—fors reasons of national security—needs a draft or predraft registration to realize this goal, I will support these actions.

But I do not believe that taking these steps today will most effectively and efficiently meet this goal.

We must remember that, as stated by the Senator from Oregon and others, coupled with our Reserve and National Guard units, the All-Volunteer Force is the only trained reliable force available to the United States today. In fact, under the predraft draft, there would be no significant change in the makeup of our Armed Forces for well over a year. What I believe we must do is apply the additional resources and national commitment to making the Volunteer Force work better for us today.

I wish the President had set specific goals for the All-Volunteer Force and a specified period of time—18 months—to carry out those goals. This should have been done with the understanding that if they were not reached within that period of time, we would go to an actual registration system.

Unfortunately, the President did not take this step—and I am troubled that he did not call on young Americans a serve in the military before recommending registration.

Our modern military, with its sophisticated weapons, requires highly trained soldiers if the killing machine is to be effective. If people are drafted, most leave the service by the time they are becoming proficient at their given positions. A draft cannot solve the present problems of our military.

We can maintain a strong military force only when we recognize the need for training and experience. We must address the problem of retention and recruitment. A fair, realistic, increased pay scale is one such step.

I join with the Senator from Colorado (Mr. Anderson) in that regard. I support efforts to increase the salary of our military personnel. I support efforts to improve training, education, and inducements for the best of our military to reenlist. Retention—not recruitment—is the issue today. The problems that do exist can be solved, but the country, the Congress, and the Defense Department must fully support the all-volunteer concept.

There is no question in my mind from the mail I have received—I have received a great deal, both pro and con on this registration—from those in favor of the registration plan, I find over and over again in letters I receive from across the country that those who are in favor of it are in favor of it as a means of doing away with the All-Volunteer Force, as a first step.

I am opposed to registration and a peacetime draft because they are the first steps in eliminating the All-Volunteer Force. This concept of volunteerism can work only if we know its full potential we will have committed our country to conscription indefinitely.

In other words, if we let this go through, we make absolutely sure that those who support an All-Volunteer Force will be undercut for the rest of the time and we will never be able to make it work.

It is important to note that both those who support and those who oppose the administration's proposal believe that the Selective Service System must be brought out of its standby status so that it will meet the Defense Department's requirements in case of a national emergency. The President's proposal, while raising all the problems associated with a draft, would not address the problems of the All-Volunteer Force.

Registration, whether pre- or post-mobilization, will have no appreciable benefit on the personnel needs of the current volunteer Armed Forces. The central problem faced by the Armed Forces today is the retention of skilled and experienced soldiers.

Until steps are taken to make military service a more attractive career, the reenlistment of pilots, physicians, and other technically skilled individuals will continue to be problematic. The Army Chief of Staff concludes that we cannot solve this manpower problem by registration or a peacetime draft.

Opposition to draft registration cuts across the political spectrum. Presidential candidates Ronald Reagan, Senator Edward Kennedy and Congressman John Anderson, as well as former President Gerald R. Ford have all expressed disapproval of the registration plan.

It is clear that the decision represents a symbolic reaction to international events rather than a sincere attempt to improve our military posture. Even as a cosmetic gesture, I believe it is cosmetic at best. Though it will not send a meaningful message to the Soviets, it may mislead the American people into thinking that something meaningful has been done.

There are serious questions regarding the equity and the constitutionality of a registration system limited to males. If, for reasons of security, this Nation must move to registration or a draft, I believe there should be no exemption except for physical infirmities. This should be equally applied to all men and women.

I have voted against funding to implement registration in the Appropriations Committee, and I will vote against the measure if it is brought up here in the full Senate. I have always tried to vote on the merits of any given issue, however, and therefore, have made it my policy to vote for cloture in the 5 years that I have served in the Senate.

Really, Mr. President, my most difficult decision in this debate has been to support the efforts of the Senator from Oregon, I support the amendment of the distinguished Senator from Kansas (Mrs. Kassebaum). I will support the cloture vote, and I think my only difficult choice today, is going to be on the cloture issue.

But I have no difficulty in opposing the registration plan, if people are drafted, most leave the service by the time they are becoming proficient at their given positions. A draft cannot solve the present problems that do exist can be solved, but the country, the Congress, and the Defense Department must fully support the all-volunteer concept. Otherwise, our military posture will not be improved, and we abandon it before we know its full potential we will have committed our country to conscription indefinitely.

I think my only difficult choice today, is going to be on the cloture issue.

I have talked with a number of my colleagues, among them my distinguished colleague from South Dakota (Mr. Passas), and explained to him that I have been in a position to see this thing from both sides, now as a legislator and formerly, for more than 5 years, in the Department of Defense as Under Secretary of the Navy and Secretary of the Navy, during the Vietnam war. I saw firsthand the inequities of the draft system at that time.

I have given my colleague from South Dakota my personal assurance that in the work in the Armed Services Committee, I will do everything that is humanly possible that we never bring back upon the youth of this Nation a system with such inequities as we experienced during the period of the Vietnam war. It was unfair. Nevertheless, I believe it is of paramount importance at this time that the Congress of the United States go forward and support the President's request at this time for registration—registration only, not a draft. The subject of a draft is not before this body at this time.

I thank the distinguished Senator from Oregon.

Mrs. KASSEBAUM. Mr. President, will the Senator from Oregon yield me 2 minutes?

Mr. HATFIELD. I am happy to yield 2 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator.

Mr. President, I have an amendment at this time. I ask that, if we are to have registration, women will be included. Senators Levin, Simpson, and Leahy have cosponsored the proposal.

It is not our intention to delay the Senate. I would like to call up the
amendment at the first parliamentary opportunity. After a reasonable time for debate, in which any Senator who wishes to express himself on the issue has had an opportunity to do so, I would seek a vote. I think 3 to 6 hours is a fair estimate of the time this matter will consume.

My intention in speaking at this time is to put Senators on notice that I have this amendment and will bring it up. It is my understanding that chances for getting a vote on the merits of the amendment, if it is offered post cloture, I think the issue is sufficiently important to warrant a vote on the merits; therefore, I would like to complete action on the amendment before cloture is invoked.

In deference to the wishes of other Senators, I have withheld debate on the amendment prior to this first cloture vote. Whether cloture is invoked or not, I will, if I am permitted, bring my amendment to the floor as soon as the pending business is resolved.

Mr. HATFIELD. Mr. President, what is the objection?

The ACTING PRESIDENT pro tempore. Six minutes and forty-nine seconds.

Mr. HATFIELD. I yield 1 minute to the Senator from South Dakota for a question.

Mr. PRESSLER. Mr. President, I commend the Senator from Oregon for his excellent leadership of one side of this issue.

My observation is that during the Vietnam war and during the voluntary service period following it, we have found that those from the lowest income and lowest educational groups have made up a substantial share of our Armed Forces. This is a very great problem.

I am not advocating the draft today; but if we do move in the direction of greater manpower mobilization, are we to be permanently locked into having a military that seems to be made up primarily from a lower income and lower educational background?

For example, 6 years after World War II, nearly half the Members of Congress, or in leadership positions in the country, served in the military forces in World War II. At present, a very small number who serve in Congress, or in leadership positions in the country, served in the military during the Vietnam era.

Are there other steps we can take so that a broader cross-section of our society will become involved?

Mr. HATFIELD. I should like to respond to the Senator with documentation rather than merely an opinion.

As the Senator knows, the Rand Corp. was commissioned to make a study of the entire recruitment program—voluntary forces, draft, and so forth. In that report, this is their finding:

We also have not even considered today, or at any other time, what the enforcement of this program will be. The Justice Department has no plan in hand. At least, they told that to our committee.

How are we going to enforce noncompliance? It will involve 2 percent of 4 million—80,000 is what the Justice Department estimates. What is the plan for that enforcement?

What is the problem of privacy? We have talked about the determined right, the right of any citizen, of one's day in court. The Justice Department has no plan in hand. At least, they told that to our committee.

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What about women? We have not even addressed Senator Kassebaum's issue about women registrants and women draftees.

Mr. DOLE. Mr. President, first, I commend Senator Hatfield from Oregon and Senator Munoz from Georgia and others for their leadership in managing a most informative and useful debate on the issue of peacetime draft registration.

Mr. HATFIELD. Mr. President, I should like to close, before the vote on cloture.

The desire to close off debate on this matter is very interesting. The administration indicated at the first of the year that they would have this matter pass through Congress within a few days, which has not happened, and they indicated that they would win the first cloture vote and cut off the debate. I do not know what their victory will be, or if it will be a victory on that question, until the vote is taken.

I just wish to point one thing: Even this morning, in the closing minutes before the first cloture vote, we have had the assurance of those who are going to develop an equitable, fair draft system. So we are asked to close off debate on an issue that is of such great magnitude that we do not even have a plan for it; yet, we are saying that we are taking the first step toward the draft.

The advocates have said that this is the first step toward the draft. Yet, we are asked now to buy the assurance, the word, of these people. Initially probably will be drafting a program of compulsory service, that it will be a fair and equitable program. By its very nature, it will not be equitable, it will be discriminatory, as all drafts have been.

Let us not base our judgment on assurances here today. Let us go to history. The history of this Nation's draft experience gives us the evidence that is indisputable.

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CLOTURE VOTE

Senators who have participated in this debate have brought forth some very cogent arguments for and against this proposal—a process which is imperative if Senators are to make an informed decision on such an important piece of legislation. That is why I intend to vote against cloture today, as I believe further substantive debate can only serve to provide the answers to the many questions that surround this very controversial issue.

Mr. President, once again, I want to state that this proposal does not in any way address the problems we face today.
in maintaining or upgrading and maintaining a strong defense. There is no question that we are experiencing serious problems in attracting and keeping quality personnel.

Gen. Edward C. Meyer, Chief of Staff of the Army, testified before the Senate Armed Services Committee and said:

Registration does not do anything as far as short-term readiness of our Armed Forces is concerned. So, if you talk about short-term contingency in which we insert forces and are able to train with active forces, the Selective Service System would not bring people in, train them, and have them in the Army in time to have an effect.

Mr. President, other unanswered questions help explain General Meyer’s conclusion: Do we have the proper training of the Army, testified before the Armed Services Committee and said:

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So, how will the President’s premobilization registration program accomplish this? The answer is that in and of itself it is not the total answer to follow through on the Persian Gulf document or any stated policy intention. However, the rejection of the proposal will drive us to a situation where we must await an emergency to be declared because the country through the AVF and Reserve Forces. This meant a shortfall throughout the actual Reserve Forces as opposed to training deadlines.

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by the "Milty Nuggets" exercise we are willing to accept the fact that without advance registration within 90 days after mobilization infantry positions will be short by almost one-half of planned strength, artillery positions will be short by almost one-quarter of planned strength, and armor positions will be down by almost three-fourths of planned strength.

Mr. President, this is not the world as I would wish to see it but it is the world of U.S. military readiness and capabilities as it really is when matched against emergency requirements. Perhaps we could change the assumptions of those requirements, but, regrettably, that would not change the dangerous and unpredictable nature of the world in which we live. Now, I am aware that there are many other issues which will have to be discussed and debated as the President's registration plan is implemented, starting with the President's request to support the Department of Defense in fiscal year 1980. The Appropriation Committee, also, the President's request to include women in the registration program; what the system of classification might be in the event of a return to the draft as well as upgrading the levels of compensation for the AVF and providing increased incentives and benefits for the Reserve Forces. After agreement is reached to end debate, I am sure most of these issues will be fully considered.

Mr. President, we have had an opportunity over the past 5 months since the President proposed premobilization registration to look at this proposal in its many aspects. So, I believe we have now deliberated long enough. Some of us who will support registration today may do so out of a profound sense of confidence and support that passage of this legislation will lead us down another "Vietnam alley." As much as I share these concerns, I do not agree with that assessment. We can all afford to repeat the reference of Mark Twain's cat that would never sit on cold stoves because he had been burned by a hot one. The fact is that there are recurring risks in the world which can directly jeopardize the political, economic, and security interests of the United States unless we do what is necessary to send the clear signals that our economic and military strength will be brought to bear to defend our vital interests.

The peacetime registration program will help keep the peace if it is followed up by doing what is necessary to correct problems in the AVF and Reserve Forces as well as pursue the right kinds of defense procurement and management policies to improve the readiness of our forces-in-being. The peacetime registration program will help keep the peace if our Nation also demonstrates our will to hold down the economic weight to tighten the screws against the Soviet Union and Iran. So I believe it is prudent that we proceed and approve this program with the knowledge that the task of repairing deficiencies in certain aspects of our Nation's defenses will not end with the vote today; in a very real sense it will have just begun. Whether that process will actually involve a return to the draft will depend upon the degree of success which we achieve in these other areas I have mentioned. Hopefully, this will not be necessary. I will vote for the registration measure because I believe that registration preparedness today will lessen the likelihood of the draft tomorrow.

Mr. President, I again find myself in an uncomfortable position in regard to a cloture vote. I have consistently indicated that I believe that once the Senate has had an ample opportunity to debate the general issue of registration.

The problem that concerns me is simply this: A number of Senators, myself included, have indicated for some time that they wish to offer amendments to this legislation.

In almost all cases, these amendments are directly related to the purpose of this legislation. But despite their relevance, it is clear that they are not germane in the very technical sense that the Senate rules define that term. In essence, then, a vote for cloture will have the effect of allowing points of order to be raised against these relevant and significant amendments. We would then be denied an opportunity to vote on the merits of a number of important issues like registration, for example, then, a vote for cloture would have the effect of preventing the Senate from considering, on their merits, a number of amendments which while not technically germane, are substantively relevant to the purpose and nature of the legislation before us.

I am more than willing to support cloture—and I intend to support it—once we have either considered these amendments or once we are assured that the Senate will be able to vote on their merits. In that connection, I would indicate that the Easter adjournment bill is not the time to reject the notion of cloture. In that case, then, a vote for cloture would have the effect of preventing the Senate from considering, on their merits, a number of amendments which while not technically germane, are substantively relevant to the purpose and nature of the legislation before us.

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Mr. Nelson. Mr. President, the Senate today will decide whether to shut off debate on House Joint Resolution 521, legislation to reinstitute premobilization draft registration for 18- to 20-year-old males in the Selective Service System. I shall vote no. Mandatory premobilization registration ended in April 1975. President Carter has repeatedly emphasized the threat of Soviet invasion of Afghanistan last December.

In July of 1979, Secretary of Defense Harold Brown, speaking for the administration, advised the Congress that he opposed registration. In a letter to Representative Charles Bennett, Democrat, of Florida, the ranking Democrat on the House Armed Services Committee, Secretary Brown wrote:

I oppose peacetime registration at this point. Given adequate planning and funding, I believe the Selective Service System could be able to meet the Department of Defense requirement for delivery of new inductees without peacetime registration.

Now, suddenly, the President has stated in a statement that postmobilization registration would not make any difference in the speed with which the Selective Service could process inductees.

So, in a military needs standpoint, the experts seem to agree that peacetime registration is not necessary to the national security.

According to the Congressional Budget Office, the institution of premobilization registration would not make an appreciable difference with which the Selective Service could process inductees.

And in a January 16 report to the President, the Selective Service itself concluded that postmobilization registration was the "most cost-effective" and "least intrusive" registration option, and was its option of choice. With internal administrative improvements alone, the Service said, it could exceed Defense Department wartime induction requirements.

Our past wartime experiences, of course, are instructive. The U.S. registered 10 million men on a single day when it entered World War I, and 16 million men on a single day in preparation for World War II. Clearly, then, the country has conducted its reinstatement in 1-day postmobilization registration in the face of a military emergency. There is simply no reason to believe that we would be any less successful in the future. The Selective Service is already a military threat to our vital national security interests.

Certainly there is no reason to risk
the divaseness which the resumption of draft registration could cause if our military security does not require it.

Registration, then, does not provide the means to buttress America's Armed Forces. The United States is relying on strengthening the Active and Reserve Forces we already have, particularly the Reserve Forces.

I doubt whether many of us realize the degree to which both the Guard and the Reserves are dangerously short of qualified, trained manpower, up-to-the-minute weapons and equipment, and the training facilities they would be required to provide in time of war. The key to solving the manpower problems in the Reserves and the National Guard is to make Reserve and Guard duty more financially attractive. We must take steps to encourage more people to join the Guard and the Reserves and, for those already serving, to reenlist. These steps should include improved recruiting efforts, competitive levels of pay, and reenlistment bonuses.

Second, America's Armed Forces, both Active and Reserve, must be provided with effective equipment and training in order to meet the challenge from the Soviet bloc.

Third, the Guard and the Reserves must be provided with full-time staffing they so desperately need to achieve the higher standards of readiness now demanded of them.

The Guard and the Reserves will never be able to perform their wartime missions unless they overcome two key manpower problems: (1) the shortage of qualified people and the high turnover rates. These two problems, in turn, cannot be solved without first improving the kind of training our guardsmen and reservists receive.

Strengthening the National Guard and the Reserves would send a clear signal to the Soviets that we are moving to improve the combat readiness of our Armed Forces. We do not do this.

Writing in the Washington Post recently, Martin Anderson correctly pointed out that even with the names and addresses of young persons in the Pentagon's 1973 registration list, it would take 3 to 4 months to contact them, induct them, and hastily train them—if the training facilities were ready. The end result would be thousands of teenage soldiers, some serving reluctantly, most with no experience and little training, flooding into the ranks of the Armed Forces many months too late.

Registration is not the answer to strengthening America's Armed Forces. The answer lies in beefing up the Active and Reserve Forces we already have—active and reserve. The key lies to America's security in the turbulent decade ahead.

I strongly urge the Defense Department to review its fiscal year 1981 budget authorization with an eye toward redirecting significant amounts of money to projects designed to strengthen the combat readiness of the Reserves and the National Guard.

Mr. HATFIELD. Mr. President, I ask unanimous consent that a statement by the Senator from Massachusetts (Mr. KENNEDY) on the draft registration be printed in the Record.

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

STATEMENT BY SENATOR KENNEDY

I am strongly opposed to the pending measure to reinstate military registration, or "deep standby," in order to encourage more people to join the Reserve Forces, and I lend my full support to the Adjutant General's recommendation that the Senate vote against the proposal.

Registration is not the answer to strengthening America's Armed Forces. The answer lies in beefing up the Active and Reserve Forces we already have—all available to the active Armed Forces.

According to the Adjutant Generals, the National Guard lacks the weapons, equipment, training facilities, and incentives that are available to the active Armed Forces.

"There is no substitute for an active mobilization force. The National Guard is second in importance—it is essential," these Guard commanders say. In my view, then, three steps are essential to strengthen the Guard and the Reserve, and enable them to do their job.

First, the Guard and the Reserves must be given the tools to attract and retain highly qualified, highly skilled, highly motivated men and women. The Reserve Forces now lack fully 200,000 of the men and women they would be
The legislative clerk resumed and concluded the call of the roll.

The PRESIDING OFFICER. Are there other Senators present who desire to vote? Are there any Senators wishing to vote?

Mr. PACKWOOD voted in the affirmative.

Mr. WEICKER voted in the affirmative.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG) and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATTHIS) is necessarily absent.

The yeas and nays resulted—yeas 62, nays 32, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—62

Baker
Bayh
Bentsen
Boren
Bositis
Bumpers
Burdick
Button
Chafee
Chase
Cochran
Domenici
Durenberger
Durbin
Eisen
Esen

NAYS—32

Armstrong
Bellmon
Bradley
Cohen
Crandon
Culver
Danforth
Dole
Eagleton
Hatch
Hatfield

The PRESIDING OFFICER. The vote is closed.

The PRESIDING OFFICER. Time on this measure is now limited to 100 hours. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Chair states that, cloture having been invoked, the committee amendment is not germane—the Senate will be in order.

Mr. MOYNIHAN. Mr. President, may we have order?

Mr. THURMOND. The Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

The PRESIDING OFFICER. The Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

The Chair.

The Chair announces that, cloture...
having been invoked, the committee amendment, on the face of it, is not germane.

Several Senators addressed the Chair. The PRESIDING OFFICER. Therefore, it is not in order and the pending amendment to it, therefore, also fails.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair.

Mr. NUNN. Mr. President, will the Presiding Officer ask for order? This is a very important ruling. I think the Senator from Oregon and I would agree everyone ought to listen to the ruling. I would ask the Chair to repeat the ruling, please.

The PRESIDING OFFICER. The Chair has ruled that the committee amendment is not germane and that both it and the pending amendment, therefore, fall.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair. I ask for the yeas and nays.

Mr. NUNN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. NUNN. Mr. President, is it the ruling of the Chair that the committee amendment is not germane and, clouture having been invoked, the amendment is not germane and also the Nunn amendment to that amendment is not germane and that both would fall?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, I ask for the yeas and nays.

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

The yeas and nays are ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The appeal is not debatable.

Mr. ROBERT C. BYRD. Mr. President, I understand. I move to table the appeal.

The PRESIDING OFFICER. The question is on the motion to table. Mr. NUNN. Mr. President, I ask for the yeas and nays.

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

The yeas and nays are ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The appeal of the ruling of the Chair was rejected.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, appeals are not debatable in nature, but I believe that if Senators could have just a few minutes to debate the appeal, they would have a better understanding of what they are voting on and, I hope, will then uphold the Chair. I ask unanimous consent that there be 30 minutes, equally divided, on the appeal. I ask unanimous consent that the time be divided between Mr. HATFIELD and Mr. NUNN.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, let me briefly outline the issue before us. The Appropriations Committee, in full committee markup, by rather a good margin, determined that there should be included on the registration card a box or some way in which a person who is called upon to register would be able to check his view as to whether he expected to claim a conscientious objector classification later on the road. This in no way established any right of a conscientious objector at the time of registration, but merely gives an indication of what we may be faced with in terms of compliance.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order so that the Senator may be heard. Members will dispense with conversations.

The Senate may proceed.

Mr. HATFIELD. Mr. President, this is not a theoretical situation, because we have published in the press, as of March 27, 1980, a report by Donald Guritz, a former Selective Service Regional Counsel for the Midwestern States. Mr. Guritz indicated, in that report to the Selective Service System, that he was deeply concerned about the possibility of a high number of registrants being of the conscientious objector viewpoint. He suggested that there might be ways to ascertain what kind of problem we have in terms of compliance or noncompliance.

That person will still have to go through the administrative procedure outlined by the statute to establish his position as a conscientious objector.

I do not believe I have to argue the point we have had a historic position on this subject. The very founding of the Republic, that we provided for that right from the very beginning of the Republic's history.

The Senate is not establishing any new right here. What we are trying to do is to ascertain what kind of problem we have for the simple reason that the Justice Department has not in any way presented us with any data as to how they expect to enforce this law, or this requirement of registration, if we pass it.

They have estimated that up to 20 percent of the 4 million may be in the group of noncompliance. That leaves 80 percent in compliance. Others have indicated it may be as high as 10 percent in noncompliance. They have no plans at all at this time on how many investigators, and so forth, will be required to enforce a registration act.

Therefore, it seems to me, as it did to the committee, even those who supported registration in the committee voted for this provision for the simple reason that it is necessary as a possible, as much a sense of what we have as a problem, before us in terms of compliance as possible.

This is an amendment to the amendment offered by the Senator from Georgia which would say, "Well, let this happen at the time of classification."

That has nothing to do with compliance at a time of registration because registration does not incorporate classification. Classification has to come under a later act by the Congress and the action of the President. But this procedure does not tell us if we have in the standing activity, an opportunity to find out how many 19- and 20-year-olds are there and where they are. It seems to me we ought to at least know the additional factor of how many of them we can at least indicate by this box on their form to become, or file for, the classification of conscientious objector.

Again, let me emphasize that no one believes that a conscientious objector is merely checking off the box. It does, though, I believe, give us that additional information and understanding of what kind of job we have.

This is the one thing I have been arguing, primarily to an empty Chamber, from the very beginning, that we have not, really, any kind of blueprint or pro-
gram presented by the administration of how they expect to enforce this.

We are asked to buy a pig in a poke, in a sense, because they have at no time been committed to the development of what kind of enforcement program they expect to impose if we pass a registration requirement, and no concern about whether it is subscribed to, obeyed, or is in accordance with, by the people involved.

I think that is irresponsible. I think the administration has acted irresponsibly on this part of their proposal.

I do not challenge the legal authority that the President already has. There is no question that the President has the authority today to commit himself to a registration program. But I think it is very interesting that simultaneous to his asking the Congress for $13-plus million in order to implement that plan, the agency proceeds to go ahead and print the forms without the congressional action.

That was well established that their is problem, in a sense, for having been so presumptuous as to go ahead and print forms before they actually had their request cleared by the Congress.

I do not challenge the legal authority of the President. That has been very well established in our record of debate up to this point.

I say that several witnesses appeared before our Appropriations Committee and indicated that failure to provide members of some religious groups, the historic peace people, and others defined by the Supreme Court, with an opportunity to state such intentions at the time of registration would lead to a substantial amount of nonregistration. That was well established in our record and in order to implement that plan, the agency proceeds to go ahead and print the forms without the congressional action.

The Chair's ruling on germaneness is not coming out of the time of the Senator from Georgia under cloture and but that come out of the overall 100 hours.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia, the majority leader, for that additional time.

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The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from West Virginia, the majority leader, for that additional time.

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Without objection, it is so ordered.

Mr. HATFIELD. I thank the Senator from West Virginia, the majority leader, for that additional time.

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Mr. CHAFEE. Mr. President, will the Senator from Georgia yield for a 30-second question and answer?

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Mr. CHAFEE. Mr. President, will the Senator from Georgia yield for a 30-second question and answer?

Mr. NUNN. I yield.
Mr. GOLDWATER. Yes.

Mr. HATFIELD. I do not know what this Senate will do if we are called upon to enact a Selective Service Act which would have criteria or establish some base upon which conscientious objector status could be granted to those who apply. I have no way to foresee that.

I hope that we could make it so definitive that it would be as objective and less subjective as possible because the Senator is quite correct.

Let us go back to the Supreme Court case. The Supreme Court looked at this and if one had been a Mennonite or a Quaker in the past, that more or less was prima facie evidence that he had a right for a classification of conscientious objector. Then they found people had the same depth of feeling if not more so and they might not be a Mennonite or a Quaker; yet they were forced in. The Supreme Court tried to broaden that by setting up a criterion, and I think that is always subject to review and becomes more definitive.

I agree with the Senator. I was asked the same thing to testify on occasion. How can one crawl in the mind and the heart of someone else and make a judgment? It is very difficult.

Another point that might be raised is that one does not have to base it on religious objections.

Mr. HATFIELD. That is right.

Mr. GOLDWATER. One could have moral objections.

Mr. HATFIELD. Exactly.

Mr. GOLDWATER. I think there were more moral objectors to war than religious. I am getting to the point that was raised by our friend from Rhode Island about the handicapped. I think that is a very valid thing we have to take care of.

Mr. HATFIELD. That is right.

Mr. GOLDWATER. I remember one man who served under me and it took me 3 years to get him. He had tuberculosis. He was 4-F. But he was the best man I ever had work for me.

There is a place for the handicapped if they wish to work.

Mr. HATFIELD. Certainly.

Mr. GOLDWATER. I will discuss it with the Senator from Georgia. I am sure that we have language that makes all of these things a little more simple than it was the last time around.

Mr. HATFIELD. Yes. I agree fully with the Senator and wish to work with him.

But the point we must bear in mind, I say to the Senator from Arizona—

The PRESIDING OFFICER (Mr. Nelson). The time of the Senator from Oregon has expired.

Mr. HATFIELD. I will tell the Senator privately.

Mr. GOLDWATER. I am sorry.

The PRESIDING OFFICER. The Senator from Georgia has 6 minutes remaining.

Mr. NUNN. Mr. President, I shall just take 1 minute, and then I believe the Senator from West Virginia and the Senator from Mississippi wish to speak.

Mr. President, the Senator from Arizona and I have his finger right on the problem with this well-meaning, sincere amendment proposed by the Senator from Oregon. If this amendment is agreed to, not only are we setting up a conscientious objector privilege which exceeds that of the blind, the lame, the deaf, and the disabled, but we are doing it in a way that no evidence would be presented whatsoever and there would be no examining body, no one to examine them, and there would be no opportunity for a conscientious objector to state whether he is opposed to any service in the military which would be combat service which has been done by many, many conscientious objectors. They served in military occupations that did not go into combat. There would be no opportunity for them to say they would be willing to serve in a civilian capacity to support the overall national effort, even though they are opposed to combat.

This is the wrong place and the wrong time to express the conscientious objector status. I think it is going to be very misleading and very disillusioning to the sincere, dedicated conscientious objectors who really are legitimate because they are sincerely opposed to it. They went in and filled out a form on registration and it had absolutely no meaning. No one in Government looked at it. No one questioned it. And when they got into the classification stage, then they will have to go through everything again. So it has no meaning and it will substantially delay this overall process.

Mr. President, I yield such time as the Senator from Mississippi desires.

How much time do we have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 4½ minutes remaining.

Mr. NUNN. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Georgia.

Mr. President, notify me at the end of 2 minutes, please. I say to Members of the Senate that I make this point for clarity and for certainty. We have a positive lay in what we call the old law that was not repealed. The Selective Service law is still on the books as to this point. There is no power to make inductions. But it is there. It is preserved and can be used now if necessary.

No. 2. I think there will be no chance to avoid a full consideration of this subject matter again should there be a new law proposed with complete provisions.

That would be not only considered but it would also be recognized and favored. Not only those who are conscientious objectors but everyone who is an honest conscientious objector would be given this special dispensation.

I never have heard a member of our courts say that since I have been around who had any idea to the contrary. I believe that is fully accepted by the people at large over the Nation.

So there is not any chance being taken, and nothing neglected. With all deference, this would bring confusion and compound confusion if we should inject this in the law.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Senator.
Long), the Senator from New Jersey (Mr. Williams), the Senator from Washington (Mr. Magnuson), and the Senator from Illinois (Mr. Stevenson) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

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

The yeas and nays resulted—yeas 43, nays 49, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—43

Baker
Benton
Boren
Bumpers
Burke
Byrd, Robert C.
Cox
Chafee
Chiles
Cochrane
Conklin
Culver
Durham
Glenn
Graham
Goldwater

NAYS—49

Armstrong
Baucus
Bayh
Bell
Bellard
Boschwitz
Byrd
Burns
Culver
Dartmouth
DeConcini
Dole
Durenberger
Durkin

NOT VOTING—8

Church
Gravel
Kennedy

The PRESIDING OFFICER. The ruling of the Chair does not stand as the judgment of the Senate.

AMENDMENT NO. 1886

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

The PRESIDING OFFICER. The pending business is the Nunn amendment to the committee amendment. Mr. ROBERT C. BYRD. Vote. Put the question.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to share with the Senate a history of the conscientious objector. I think we recognize that this is not something that we have merely concocted at this particular time to try to secure a form indicating his intention to file for a classification of conscientious objector. This does not grant him that at all. But before, when he went to register and signed his name, he was handed a form simultaneously. If we do not adopt this as a committee amendment, then all it does is to delay that possibility, to give rise to a generation of false reports which would be prosecuted for noncompliance, based again upon the Selective Service estimates themselves.

Mr. Nunn's amendment I hope will be voted down because all the Nunn amendment does is simply to delay that right until the time this Senate acts upon a new selective service law and then, hopefully—and who knows down the road—there will be some law that we have to provide for a person to become classified as a conscientious objector.

It seems to me that it would be very important to try to minimize noncompliance at this time. The Selective Service has come to the estimates that have already been made, because we do not have the person-power in the Justice Department to prosecute every noncompliance that we may have.

We have no opportunity for these people to express themselves except through the committee amendment. Again I emphasize that the amendment does is to delay this, to deny the people the right for that opportunity to establish their intentions at the time of registration as we have had in other selective service times.

Remember, we have not had in the past a registration act and then delayed by who knows how many years until the time would arise for the adoption of a Selective Service act. That is when we have to be able to establish that position.

Mr. President, I yield the floor and am ready to vote on the Nunn amendment.

Mr. NUNN. I pressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I just want to briefly repeat the argument that most of my colleagues who were on the floor a little while ago have already heard. I think it is very important. It is essential that the committee amendment be amended. The reason for that is that the committee amendment would be misleading every sincere conscientious objector. We have never, in all the time we have had registration, had declaration of conscientious objector status at the time of registration. It always come at the time of classification.

I favor conscientious objectors being able to register their status at the appropriate time. But the committee amendment, unless it is amended by the Nunn amendment, provides that this declaration would be at the time of classification. It is going to have a very serious, in my opinion, and disillusioning effect on legitimate conscientious objectors who realize they have a form to fill out that nobody is going to pay any attention to whatever, that has no legal status whatsoever, that does not exempt them from any service whatsoever.

I think it is important for the Members of the Senate to recognize that if they leave the committee amendment unamended, that is, if they vote down the Nunn amendment which will be the next vote—we will be voting, I assume, on the Nunn amendment or a motion to table, whichever the case may be—if that amendment fails, then what we have done is we have placed anyone who wants to sign a conscientious objection statement on registration in a position that has precedents over people who are blind, over people who are deaf, over people who register in a wheelchair, because they do not have any form to fill out. They do not have any way of saying, "I am physically disabled" or "I have had some emotional or mental problem."

All of those are legitimate issues but those issues should be decided at the appropriate time, in the appropriate forum. This is where we have classification.

I would like to quote briefly from Secretary of Defense Harold Brown on this issue in a letter dated June 5 to Senator Sargent. He states:

"I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committees to enable conscientiously object to war in any form to express that belief at the time of registration."

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.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Withdrew.

Mr. HARRY F. BYRD, JR. Mr. President, I was one of those Senators who voted twice against the ruling of the Chair that the amendment approved by the committee was not germane. It appears to me that it is germane.

I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committees to enable conscientiously object to war in any form to express that belief at the time of registration.

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deal sympathetically with those who hold such strong views.

The Senator from Georgia's amendment to the joint resolution would grant just such opportunity to any individual who seeks to claim conscientious objector status.

The time to do it, and I think the Senator from Georgia is correct, is when the classification process takes place, not during registration.

In the first place, it would single out just one group which would have the right to present reasons why he would not want to participate in the Selective Service System.

I think the Senator from Georgia's amendment is superior to the committee amendment. I think it fully and adequately protects the rights and the views of any individual who seeks to claim conscientious objector status.

For that reason, I shall support the amendment offered by the Senator from Georgia. I think it is not only a reasonable one, but I think it is the only workable proposal as compared to the committee amendment, which was offered by the Senator from Oregon.

But I say again, I voted against the ruling of the Chair on two occasions because I thought the Chair was wrong and that the committee proposal should be considered by the Senate. It is now being considered by the Senate. The Senator from Georgia is offering an amendment which greatly improves the committee proposal.

I shall support the proposal of the Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Senator from Virginia for his statement and his understanding of this issue.

Mr. President, I had begun to quote from a letter of June 5 to Senator Stennis from Secretary of Defense Harold Brown that letter on the relevant portion in toto. It states:

I urge the Senate to approve the same bill that passed the House. The amendment to the House bill added by the Senate Appropriations Committee would allow those who conscientiously object to war in any form to register at the time of classification and not registration. Such an expression, at that time, would serve no useful purpose. A later exemption on this basis could not be established by this essentially meaningless action. But an officially invited indication of intent would mislead some to think it guaranteed an exemption. This sort of information is appropriate to the process of classification, not registration. Finally, the amendment added by the Senate Appropriations Committee could serve to entice many young men (the Committee estimates as many as 40%) to make a choice at the last minute by appearing to take back with one signature the responsibility they will have recognized with another.

If accepted by the Senate, this, or any other amendment, would require further action by the House and would, therefore, delay registration even more—at least until early autumn. Such a delay would be highly undesirable and would be viewed abroad as evidence of a lack of American resolve to meet the grave international challenges we face.

Mr. President, I assure we are going to be voting on the Nunn amendment to the committee amendment at some point within the next hour or so. Rather than taking more of my time that I have limited under the cloture motion that has been approved by the Senate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER (Mr. Exon). The clerk will call the roll.

The 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.

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

The PRESIDING OFFICER (Mr. Exon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I shall take just a minute, hoping that Senators will be prepared for a rollcall vote. If no Senator seeks the floor, the question will be put to the Senate and the vote will occur on the amendment by Mr. Nunn to the amendment by Mr. Hatfield.

Mr. BAKER. Mr. President, I have sent word to the distinguished Senator from Oregon (Mr. Hatfield) that we are ready to proceed. I believe the Chair will indulge me, with the agreement of the majority leader, and if we can find Senator Hatfield in a few minutes, we shall be ready to proceed in very short order.

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

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

Mr. HATFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The amendment of the Senator from Georgia to the committee amendment.

Mr. HATFIELD. Mr. President, I thank the Chair.

Mr. President, at an appropriate moment, if everyone who wishes to speak has spoken, I shall make a motion to lay on the table the amendment of the Senator from Georgia to the committee amendment.

Mr. NUNN. Mr. President, I understand the position of the Senator from Oregon and understand that he will move to table. I do not need a lot more time on this amendment. I think it has been discussed pro and con a good bit this day.

I do reopen, though, that unless my amendment is attached as a part of the committee amendment, the committee amendment itself is very misleading. Some conscientious objectors are going to feel that they will be given some exemption or some status that is different from those other people who register without signing some form if the committee
amendment fails. That will be false. They will not be given any status. There is no exemption. They will simply be voicing their own conscientious views. There is an appropriate time and place for that. The appropriate time and place for that is under classification, which has historically been the place that we have had the expression of conscientious objections.

I think it ought to be repeated that, under the registration procedure, there will be no evidence offered by the conscientious objectors, there will be no examining body to determine if they are sincere in their beliefs.

There will be no category of conscientious objector. We will not know whether that particular individual is willing to serve in the military in a noncombat position, or whether that individual is willing to serve in a civilian position, and all those are directly relevant.

I also say, Mr. President, that there will be no provision for those who are physically or mentally unable to serve. The people who are blind, deaf, lame, hoping it will light in our eyes so that we do not see the real issue.

That is a matter that will be determined at a time of classification, as well as the classification of conscientious objector. But the conscience, the matter of conscience, the matter of intent to declare oneself conscientious objector, is different than being handicapped.

Besides, I, for one, will move, if we get to that place, which I hope we do not in peacetime, to the place of establishing a select list, a draft of draft, to give handicapped people to serve their Nation in military uniform.

There are many positions they could occupy. Having spent over 3 years in the military, I know of many positions that could have been effectively handled and performed by people we could classify as handicapped, denying them the right to defend their country in time of national emergency.

I think this Senator and the Congress generally, have done much to improve the lot of the handicapped; access to buildings, educational benefits and rights. I cannot conceive that this Congress would continue to deny those who may be physically handicapped from occupying important positions in our military if they desire their.

Consequently, that is entirely a specious argument.

I think if one person, one individual, goes to jail because of the Nunn amendment, it would be a tragedy.

I know that many, perhaps tens of thousands, will be prosecuted, if we prosecute under this regulation, or this policy, if we decide to fulfill it under the President's request, will be imprisoned, or at least prosecuted and leading to possible prison. That is why I want to minimize that kind of situation for our young people.

The Nunn amendment certainly exacerbates what will be a difficult policy to administer in the first place, and by voting that amendment down and supporting the committee amendment we will help to work out these particular issues in the administration of the policy, which I assume by the vote this morning ultimately will prevail.

But I also want to make the record very clear to the majority leader and others that it is my intent to utilize even the full 100 hours we have under the closure motion. So that no one is misled and no one is caught by surprise, I say that I have a number of items at the desk. I shall strive in every legitimate parliamentary procedure that is open to me to continue to delay this as long as possible.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. HATFIELD. I yield to the majority leader and then I want to make my motion.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. He has made clear what his intentions are. I respect him for that. I suppose we just have to govern ourselves accordingly. But I do resent his language and his determination, and I respect him and admire him for laying his cards right out on the table.

I was going to ask him later what his intentions were, but I do not need to ask him now. He has stated what his intentions are. I thank him.

Mr. HATFIELD. Mr. President, the majority leader has been very fair and very helpful. I thank him again.

That is why I felt I should lay my cards out on the table and catch nobody by surprise. We can plan accordingly.

But I wanted to mention this for the record at this time.

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

Mr. NUNN. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

THE PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Nunn amendment to the committee amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yes."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

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

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 179 Enrolled]

YEAS—44

Armstrong    Packwood
Armstrong    Packwood
Baucus       Heinz
Baucus       Heinz
Biden        Kassebaum
Biden        Kassebaum
Bradley      Leavitt
Bradley      Leavitt
Boren        Leach
Boren        Leach
Coburn       Levin
Coburn       Levin
Domenici     Manzanares
Domenici     Manzanares
Ogden        McClure
Ogden        McClure
Johnson      McJunkin
Johnson      McJunkin
Mr. ROBERT C. BYRD addressed the Chair.

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Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. He has made clear what his intentions are. I respect him for that. I suppose we just have to govern ourselves accordingly. But I do resent his language and his determination, and I respect him and admire him for laying his cards right out on the table.

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

Mr. NUNN. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

THE PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the Nunn amendment to the committee amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "yes."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

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

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 179 Enrolled]
So Mr. Nunn's amendment (No. 1886) was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. THURMOND. Mr. President, I yield to the majority leader from North Dakota (Mr. Young).

Mr. YOUNG. Mr. President, as the ranking member of the Senate Appropriations Committee, I wish to designate the senior Senator from Oregon (Mr. Hatfield) for the handling of this bill for consideration by the Senate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield on this point? In the hours that are yielded to the respective managers, what form must that action take on the part of the Senator willing to yield such hour?

Mr. ROBERT C. BYRD. Mr. President, a Senator who wishes to yield such time needs only to stand up on the floor and yield to Mr. Hatfield, or to Mr. Nunn, or whomever.

Mr. HATFIELD. As a matter of official record?

Mr. ROBERT C. BYRD. Yes. But, beyond that, it would require unanimous consent for any Senators to yield any of their time to any other Senators.

Mr. President, for the purpose only of stating to my colleagues to indicate to my colleagues what the situation is so that they may govern themselves accordingly, let me say this: Many of the Senators were not on the floor when Mr. Hatfield indicated this. I indicated it in my own words so that I do not misrepresent him—as to what his intentions are now that cloture has been invoked.

Would the Senator do that, please?

Mr. HATFIELD. Mr. President, I am happy to; I assume on the majority leader's hour.

Mr. President, I indicated to the majority leader and to those present in the Chamber at the time that I had no desire to play games or to provide any surprises and that I had every intention of following the rules to the letter in order to use open to me fully the 100 hours that are allocated under the cloture rule.

In other words, I have every expectation of pushing this bill as far down the road as I can, and I only have 100 hours to do it. Now, I do not control all of those 100 hours, but I shall use such things as rollcalls, quorum calls, and every other such parliamentary procedure that is open under the rules in order to use up, fully exhaust, the 100-hour period.

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

Senators will understand that what I say is not with any animus toward the Senator from Oregon. I admire him; I think that he is only doing what he would intend to do. That was my absolute intention.

But I do feel, as chairman of the subcommittee in charge of the resolution, I want to maintain the maximum hours over the bill. But, as I told Senator Stevens and Senator Nunn, I would be delighted to have them handle the 2 hours or whatever I have, but that is only fair.

Mr. ROBERT C. BYRD. Mr. President, is it my understanding that, based on my conversation with Mr. Stevens, that Mr. Nunn should be designated as the manager of the bill on this side of the aisle for the purpose of controlling that 2 hours, or any Senator yield? Mr. STENNIS. That is correct.

Mr. President, may I thank the Senator from Wisconsin for his fine attitude about this matter all the way through, because he had the chance to be the manager.
ate that, after today, only 55 working

days remain prior to October 1, not
counting Saturdays. There are 35
working days—and any Saturdays
that are included—the Senate has an
enormous workload. It has the first concur-
rent budget resolution, which is still in
committee, and the second that is disposed of, the
Senate will have the supplemental ap-
propriations bill, which involves black lung
payments, trade assistance, and so on.

It has 13 regular appropriation bills
yet to enact. There remain 50 or more
expiring authorization bills. There is the
Alaska lands bill. There are other mea-
sures. The second concurrent budget reso-
lution, for example, will be coming along.
The extension of the debt limit will have
to be faced up to again, and maybe again
and again. I cannot say.

May I have the attention of Senators.
Mr. President? What I am saying affects
every Senator here and his schedule. I do
not want any misunderstanding to
be abated. This is just a preview of what the
working days before October 1 will be.

One hundred hours would be 8 12-hour
days plus 4 hours, or it would be 12 1/2
4-hour days. The Senate just cannot af-
ford to lose 24 hours, if I should use that.
That is the period of time on this joint
resolution. We have already been on
this measure for 4 days. The committees
have spent time on it. The House spent
time on it. If the amendment by Mr. Har-
ruta, as amended by the amendment by Mr. Nunn, is agreed to, this measure has
to go to conference if the House does not
accept the Senate amendments. That
would mean we would probably have an-
other filibuster on the conference report.

So I say to my friends, we are up
against a rather sobering problem and
we might as well think about it now.
We have all of this workload and we
only have 55 days, unless we crank in
Saturdays, until October 1.

We can, of course, go beyond October 1.
I had planned to go after the elections.
We can come in on Saturdays. We
may come in early and we can stay late. But
we are going to have to do some of these things, if not all of these things, under
the cloture circumstances to com-
plete what work has to be done before
this Senate adjourns sine die.

May I say to my friends that I hope
they will be very understanding and as cooperative as they can be as we deal
with this postcloture filibuster. That is
what it is. I say that with all respect to
the Senator from Oregon. He has the right
to utilize the rules, but we can also
utilize the rules.

I want to try to eclipse that 100 hours
as much as possible, but that will require
the cooperation of Senators. I would hope
if the Senator from Oregon, I hope
that Senators would not use the time if
they can avoid it. If they want to use
10 minutes, fine, or whatever they want
to use. If they want to use the hour, fine.
But I want in mind that this Senate can, if
100 hours on this measure and no other
measure can be taken up except by
unanimous consent until the business
more are we is disposed of. That means
that if the concurrent resolution is brought in that
door, it cannot be taken up except by
unanimous consent under this matter is
first disposed of.

The distinguished Senator from Ore-
gran has said he is going to utilize the
rules. He has that right. He feels strongly
about this matter. He speaks with con-
viction. He has stated what his intentions
are. I can only say that I admire him
but that I, too, will attempt to use the
rules as best I can to bring this to a close
as early as possible. But it is going to
require the cooperation of Senators on
both sides of the aisle.

Senators should know what they are
doing. Know that we may be here all
night more than one night. We cannot
afford to spend 13 1/2 8-hour days on
this joint resolution now. We have al-
ready spent 4 days on it. We cannot
afford to do that, with only 55 days re-
mainning. Who want to be in here on
Saturdays? Who want to be in on
Saturdays, but every day we spend on this
joint resolution, is 1 off of the 55, and
every day we spend on this matter may
be a Saturday session in the long run.

So I say to my friends, schedule you-
hrs accordingly. Do not get too far
away from the Senate because there
may be many quorum calls and rollcalls
tonight.

Mr. BUMPERS. Will the Senate
yield for a question?

The PRESIDING OFFICER. The
Senator from Tennessee.

Mr. BUMPERS. I will be happy to yield.

Mr. BUMPERS. The Senator talked
about the amount of time we could
yield to the floor managers, a total of 2
hours which gives them 3 hours, count-
ing the 1 hour of their own time.

Mr. ROBERT C. BYRD. That is cor-
rect.

Mr. BUMPERS. Can we yield to other
Senators debating amendments?

Mr. BYRD. ROBERT C. BYRD. Only by
unanimous consent.

Mr. BAKER. Mr. President, I am op-
posed to the Hatfield amendment and I
shall vote against it when that time ar-
rives. I say that I will protect the
resolution and I will vote for it. I have lost
count of how many cloture motions are
now on hand and available to file from
day to day which are no longer neces-
sary since cloture was invoked with my
vote on the first try.

I think we need draft registration and
I will support it.

Mr. President. I owe a responsibility
as well to the Senator from Oregon.

I have one slight departure from the
majority leader's statement. I, too,
do not wish the Senate to spend 100 hours
on this matter. The obligation to
protect the rights of the distinguished
Senator from Oregon to make his cases
as fully and abundantly as he may wish.

So I will join in trying to encourage
brevity, in trying to see that we proceed
as promptly as possible. I will not join
in trying to terminate the rights of the
Senator from Oregon in the debate.

One other thing: Notwithstanding that
I will oppose the Senator from Oregon, I
want our majority leader to know that
under the rules, as I understand them,
he and I are entitled to receive on yield-
ing 2 additional hours. So that there is
no misunderstanding, I will solicit Sen-
ators to yield to me 2 hours so I
can make them available for further
debate on this side. I cannot yield the 2
hours to the Senator from Oregon since
he has a right to extra time as minority
leader, as he usefully exercises this by my
contribution to full and fair debate.

I will conclude now by saying I urge
Members of the Senate to adopt this
joint resolution. I think it is a good
resolution. I hope that the measure will be
abbreviated as much as possible, but I will
protect to the full extent of my abilities
the right of the Senator from Oregon to
make his case as fully as he can.

(Mr. BAUCUS assumed the chair.)

Mr. ROBERT C. BYRD. Will the Sen-
ator from South Carolina yield to me
on my own time?

Mr. THURMOND. I yield.

Mr. ROBERT C. BYRD. Mr. President,
yield to nobody in this body, on the
other side of the aisle or on my own, in
protecting the rights of other Senators.

Mr. THURMOND. I will undertake in this
par-
cular Congress that will be of more
importance than this one, to protect
my obligations to the West Virginia
Senator. I have in the past protected the
rights of the minority leader—one
against my own Vice President. So I will
protect to the full extent of my abilities
the rules I will do everything I can in
protecting the Senate's right to bring this
to a close. But that is up to the Senators.

Senators may keep it going.

I call this to the attention of Senators,
and then I will sit down, that any Senator
who wishes to yield time back may do so
under the cloture rule and the time yield-
ed back comes off the 100 hours.

Mr. STONE. Will the Senator from
West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STONE. How and when does a
Senator yield back his 1 hour? Is that
now appropriate?

Mr. ROBERT C. BYRD. A Senator
can deal with that at any time.

Mr. STONE. This Senator from Florida
yield back his 1 hour. Mr. President.
Mr. HATFIELD. Will the Senator from
South Carolina yield on my time?

Mr. THURMOND. I yield, Mr. Presi-
dent.

Mr. HATFIELD. Mr. President, I ap-
preciate the efforts of trying to resolve
the Senate business and on an expedi-
tious basis, and I appreciate the majority
leader giving us that list of vital and
important legislation.

Mr. President, I know of no issue that
the Senate will undertake in this par-
cicular Congress that will be of more
importance to our Nation than the one
that we have before us now. It literally
involves the potential lives of our young
people and there is no issue that, to me,
takes precedence over that. I say that I
expect to push the Senate to the full
use of the 100 hours, because there are
many unresolved questions, questions
that have not even been debated on this
floor.

When the majority leader says that
the House took up the issue, he implies
that it gave full consideration to the
question. The House of Representatives
did this in 1 day—1 day.

Let me say that because cloture was
The President. I think the American people have the right to be heard who want to use their hour fully and to express their viewpoint. I have not heard anyone say that the telephone-book filibuster is necessary because we have had a record of 100 hours of consideration. We are not engaged in a procedure that we have seen in the past.

Mr. BAKER. Mr. President, is it possible to yield back my hour?

The PRESIDING OFFICER. Mr. BAKER. The Senate from West Virginia.

Mr. BAKER. Is it possible to yield back my hour? What is the purpose of cloture? The purpose of cloture is to bring the matter at issue before the Senate to a close as expeditiously as is possible. If 99 Senators yield back their hour, what, under God’s heaven, are we going to do for the remaining hour? It just is not reasonable. It is not logical in the context of the meaning of the cloture rule and the purpose of it.

Mr. LEAHY. Mr. President, will the Senate yield to me on my time for a parliamentary inquiry?

Mr. BAKER. I have the floor, Mr. President?

Mr. LEAHY. Do I have the floor, Mr. President?

Mr. BAKER. Mr. President, to say that 100 hours remains and might be consumed in a number of ways—In quorum calls for instance, or a number of other devices that would not require the control of an individual Senator? The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BAKER. The President, the parliamentary inquiry is, what is the effect of time being yielded back? Does it have no effect whatsoever on the rules?

The PRESIDING OFFICER. It is simply a statement of the Senator to the effect that he has no intention of using his time.

Mr. LEAHY. A further parliamentary inquiry. If 99 Senators yielded back all their time and one remaining Senator yielded back 45 minutes, then, within a matter of 10 or 15 seconds of that time, the minority leader has the floor.

Mr. LEAHY. Mr. President, the parliamentary inquiry is, what is the effect of time being yielded back? Does it have no effect whatsoever on the rules?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BAKER. Mr. President, if what the Chair says is true, then the rule would not read as it reads. It reads “After no more than 100 hours of consideration.” It can be 99, it can be 98, it can be 50 hours. I am sorry to have to differ with the Chair, and I do so respectfully.

What is the purpose of cloture? The purpose of cloture is to bring the matter at issue before the Senate a close as expeditiously as is possible. If 99 Senators yield back their hour, what, under God’s heaven, are we going to do for the remaining hour? It just is not reasonable. It is not logical in the context of the meaning of the cloture rule and the purpose of it.

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Mr. BAKER. I have the floor, Mr. President?

Mr. LEAHY. Do I have the floor, Mr. President?

Mr. BAKER. I have the floor, Mr. President?

Mr. LEAHY. Do I have the floor, Mr. President?

Mr. BAKER. All I wanted to say, Mr. President, is that in 1970, there was a change in the rules that would have done precisely, I believe, what the majority leader has suggested; that is, permit Senators to yield back their time and reduce the 100 hours. That was proposed here, on the floor, was resisted by the majority, and defeated.

Mr. President. It is my contention, and I have been put off the Chair, that the Chair agrees and has so ruled, that the yielding back of an hour has no effect on the 100 hours. Indeed, there are any number of things that can be done in that 100 hours. The introduction of amendments, for example, can be for the calling up and reporting of amendments, for quorum calls, for any variety of other things that do not recall the 1 hour provided for, under rule XXII, for debate.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia.

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June 10, 1980

CONGRESSIONAL RECORD—SENATE

13875

calls for the U.S. Postal Service to undertake the task of face-to-face registration. In June of this year, young men, ages 19 and 20, would be asked to go to their local post offices to fill out a simple form with their name, address, date of birth and social security number.

Subsequently, the registrant would receive a short letter from the Selective Service System, indicating that he had been registered, and asking that the system be kept informed of a change in address. In January of next year, all 18-year-olds would be asked to register in the same manner, thus reconstituting continuous registration for those who reach the age of 18 in the future.

Mr. President, it is obvious that this plan constitutes only a minimum registration of our manpower pool. I would favor a more comprehensive plan to include classification, but the issue before the Senate now is this austere plan, proposed by the President.

Why should this appropriation be approved? Initially, I would like to give my thoughts as to why it is necessary. Then, I would like to quote from our civilian and military leaders as to their opinions on this important issue. Finally, I will summarize my views.

WHY WE NEED REGISTRATION

First, testimony before the Senate Armed Services Committee is overwhelming that without a registration system in place our Nation could not meet its manpower needs in any significant national emergency. It is obvious from military exercises that we simply could not fulfill mobilization plans in a timely and orderly way without registration. Army Chief of Staff Edward Meyer stated during Senate hearings that mobilization accomplished during a war is wasteful, clumsy and potentially disastrous.

Second, the threat has become more dangerous in the past years. I firmly believe that if we show the resolve to meet this and future crises, it is far less likely we will have to engage in hostilities anywhere.

We are entering a period where our Nation will no longer enjoy a strategic equivalence with the Soviet Union. This will be a dangerous period which will last for at least 5 years, possibly more depending upon how rapidly we move to correct our weapon shortages. It would be foolish to enter this period without some capability to mobilize manpower quickly in the event of a perceived or real military crisis.

SERVICE OBLIGATION

Third, I think it is past time that we tell our young people they have an obligation to be prepared to serve their country if necessary.

Many of our young people are willing to give a limited period of their time to help strengthen our forces to deter any aggressor. However, they are being told that someone else will do it if these volunteers are paid sufficiently. The honor and duty of military service is being degraded when it should be paramount over any financial considerations.

Fourth, the volunteer concept is not meeting our peacetime needs. It is unaffordable, it cannot be depended upon in emergencies and is unfairly exempting the middle and upper classes of our society from military service.

Our military needs to represent our people, and I believe registration will start moving us back toward that concept. A people unwilling to defend themselves will soon have nothing to defend.

Mr. President, I would like to now draw attention to the wide support for restoring registration.

VIDEOS OF LEADERS

The Senate should give great weight to the views of our elected and appointed leaders who have the primary responsibility to maintain adequate forces and respond to our security needs in an emergency. I would like to quote from some of these officials:

President Jimmy Carter:
Registration for the draft is needed to increase the readiness of our forces and is a further demonstration of our resolve as a nation.

Secretary Harold Brown:
The registration of men should not be delayed to include the registration of women.

Gen. David C. Jones, Chairman of the Joint Chiefs of Staff:
This manpower situation is further compounded by the lack of a responsive Selective Service System to meet mobilization manpower needs of the Services.

Since registration is one of the most critical aspects of manpower mobilization the establishment of a mechanism which provides for peacetime registration is needed now.

Gen. Edward Meyer, Army Chief of Staff:
Volunteering will not produce sufficient military manpower for a large-scale protracted war. A system of registration and selective inductees twelve days after mobilization. Delivery of the first trained inductees to theaters would be improved from M-4 to M-12, for a saving of 78 days.

Mr. President, if the majority leader is going to hold a conference, I wonder if he could not hold it in the cloakroom, or somewhere?

Mr. ROBERT C. BYRD, Mr. President, I apologize to the Senate. He is entitled to be heard, and under the rules there should be order in the Senate. I apologize to him.

Mr. THURMOND. I think it is well for the majority leader to set an example. I thought he wanted to do that.

Dr. John White, Deputy Director of the Office of Management and Budget:

Peacetime registration helps us to increase our preparedness and our ability to respond and further demonstrate our resolve.

Army Secretary Clifford Alexander:
It seems to me that a limited registration would be in order so that the availability of people would be in front of us.

Gen. Bernard Rogers, NATO Commander in Chief, Army Chief of Staff:
As a minimum, we should go to registration just as soon as we can.

Adm. Thomas B. Hayward, Chief of Naval Operations:
I am convinced that registration is a logical and sensible thing to do.

Gen. Lew Allen, Jr., Chief of Staff, U.S. Air Force:
I support registration and limited classification.

Gen. R. H. Barrow, Commandant, U.S. Marine Corps:
Registration is one step that we do concur with wholeheartedly.

Mr. President, the Senate should also believe that the Joint Chiefs as a group have long favored registration and last year took the extraordinary step of advising Secretary Brown of their position as a group.

In addition, Mr. President, the American public was asked the question in April of 1979 as to whether or not they supported registration of males and the response was 76 percent in favor. Doubtless the percentage would be even higher today in view of the crisis in the Middle East, which took place after this particular poll.

Mr. President, I think this great unanimity in our civilian and military leaders, and the public as a whole, on this subject should be very persuasive on the Senate. We are merely being asked to fund registration, not begin the draft at this time.

DRAFT MAY BE NEEDED

It may be come necessary to return to the draft and I am of the opinion that such would be in our national interests. But if the draft were downgraded, it should be as fair as possible, because I believe that the inequity of the draft during the Vietnam war was a major factor in the problems and results of that period.

In conclusion, I would like to summarize my points as to why we need registration now: First, we lack the capability to mobilize promptly if it should be in our national interest to do so. Second, the world situation is more dangerous today and will be more dangerous in the immediate years ahead. Third, I believe that youth have an obligation to be ready to serve if needed and that they will respond to that need. Fourth, the all-volunteer concept is too costly and has not developed a representative military force.

Mr. President, the registration in this resolution is a very modest step to deter aggression and strengthen our military potential. If we fail to take this modest step, I predict we will in effect encourage those who are steadily capturing the free nations of the world and moving
raptly to strangle America through de-

trial to us of essential natural resources. We

No. 1805, is an amendment to the

Mr. NUNN. To the committee amend-

There are those, Mr. President, who

Mr. NUNN. At this point, I object.

Mr. HATFIELD. Mr. President, a

The PRESIDING OFFICER. The quo-

reduce the period and

Mrs. KASSEBAUM. Mr. President, I

order for the quorum call be rescinded.

The PRESIDING OFFICER. The

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CONGRESSIONAL RECORD—SENATE 13877

So it is unfortunate. I do think we have a right to debate this amendment and will have an opportunity to debate it on the authorization bill that will be forthcoming within the next 30 days.

Mr. President, I reserve the remainder of my time.

Mrs. KASSEBAUM. Mr. President, as I said earlier, it is not my intent to try to delay. We tried to work out an agreement which we were not able to do, and I wish very much to have a debate on this amendment, as others have said that they would also desire as well.

So I will yield back any of my remaining time so we may move ahead with this vote.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. MAGNUSON), and the Senator from North Dakota (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATTHEWS) is necessarily absent.

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

The yeas and nays resulted—yeas 37, nays 55, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—37

Bentsen
Biden
Boren
Bumpers
Burke
Byrd
Harry, P. Jr.
Byrd, Robert C.
Chiles
Cochran
Collins
Durkin
Eccles

Fords
Garn
Glenn
Helms
Helms
Johnson
Inouye
Jackson
Johnson
Matsunaga
Matsunaga
Mitchell
Morgan

NAMS—55

Armstrong
Baker
Bausch
Bayh
Bellomeno
Boschwitz
Bradley
Cannon
Chafee
Cohen
Cranston
Culver
Dannforth
Dole
Domenici
Durkin
Eagleton
Goldwater
Hatch

Hartfield
Hayakawa
Helms
Humphrey
Jeppsen
Kasemeier
Laxalt
Leahy
Levin
Lugar
McCoy
McGovern
Menendez
Mondale
Moss
Packard
Pell

Presider
Proxmire
Pryor
Riese
Roth
Schmitt
Schweiker
Simplot
Stafford
Stevens
Thompson
Tower
Twomey
Wallis
Weicker
Weicker
Young

NOT VOTING—8

Church
Gravel
Hollings
Magnuson

Kennedy
Lowery
Magnuson
Williams

The PRESIDING OFFICER. The decision of the Chair is not sustained as the judgment of the Senate.

The question is on agreeing to the amendment offered by the Senator from Kansas (Mrs. KASSEBAUM) to the committee amendment.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to yield some time to the Senator from Maine, just a few minutes.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, what was the request? I did not understand it.

Mr. President, I do not believe, under the rules—

The PRESIDING OFFICER. The Senator from Kansas has the floor at the moment.

Mr. NUNN. Mr. President, you asked if there was an objection. I object.

The PRESIDING OFFICER. The Senator from Georgia objects.

Several Senators addressed the Chair.

Mrs. KASSEBAUM. Mr. President, I yield to the Senator from Kansas (Mr. DOUGLASS).

Mr. DOLE. Mr. President, this Senator from Kansas yields 30 minutes to the Senator from Tennessee (Mr. BAKES) who could yield 30 minutes to the Senator from Kansas (Mrs. KASSEBAUM).

Mr. NUNN. Mr. President, the question is whether it comes out of the time of the Senator holding the floor. If that is the question, if it is unanimous consent to have the time counted against switching time, I would have to object. If it is simply for the purpose of putting something in the Record, I think the unanimous-consent request has to state that.

The PRESIDING OFFICER. The Senator from Kansas has the floor. The objection has been heard to her request.

Mrs. KASSEBAUM. Mr. President, I yield to the minority leader.

Mr. BAKER. Mr. President, I think we are making a mountain out of a molehill. All the Senator wants to do is put something in the Record. He has an hour of his own.

Mr. NUNN. Mr. President, will the Senator from Kansas yield to me for a moment?

Mrs. KASSEBAUM. Mr. President, I am happy to yield.

Mr. NUNN. Mr. President, the question is whether we are going to begin switching time around. As long as the Senator from Kansas is not requesting anything by the time and simply yielding for that purpose, I withdraw my objection.

Mr. ROBERTS (Mrs. KASSEBAUM) asked the Senator, reserving the right to object, all debate has to be germane, also. I do not have any objection to the Senator taking 30 seconds to put something in the Record. But I do want to state that I am going to reserve my rights to object if Senators start transacting morning business or speaking on nongermane matters.

Mrs. KASSEBAUM. Mr. President, the Senator from Maine cannot remain in the Chamber. He would like to introduce his statement for the Record, which is pertaining to my question. So I just yielded some time to him before I continue with my debate.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, if I could perhaps clarify this, the majority leader and the minority leader are meeting in the Indian Affairs Committee. I was simply going to rise to express my support for the amendment offered by Senator KASSEBAUM and Senator Levi.

In determining at some point that registration is needed, whether in a pre- or post-mobilization plan, there is no rational basis for excluding women. Women have proven a valuable asset to the military, and they are performing a wide variety of military jobs with distinction.

Over 90 percent of all military occupations—basically, all those not related to combat—are now open to women. Defense Department studies have found that unit performance is not impaired by the presence of females. A 1972 naval experimental assignment, on the U.S.S. Sanctuary, found that women performed every shipboard function with "equal ease, expertise, and dedication" as their male counterparts.

A Defense Department study, "The Use of Women in the Military," concentrated on enlisted women. The analysis included promotion, accession prospects, determination, discrimination of sexual groups, attrition, physical differences, cost comparisons, deployability, and combat restriction. The results showed that there was little difference between the performances of men and women. The study also indicated that more women were willing to enlist than were being taken and that women could be used to a much more productive extent.

Those findings are in line with the conclusions of a Brookings Institution study, prepared by Martin Binkin and Air Force Lt. Col. Shirley Bach. They concluded that the number of enlisted women in the Armed Forces could be increased by up to 33 percent.

At present, 150,000 service members, or about 6 percent of the Armed Forces, are female. The services intend to increase this number to about 250,000 women in 1985. Sufficient numbers of women are now meeting the services' requirements, just as the numbers of male volunteers since the advent of the Volunteer Force have run about at the level of requirements.

In time of mobilization and conscription, however, it may be necessary to significantly expand the size of our forces in a very short period of time. The requirements for combat forces will be high, but so will the requirements for the large numbers of military personnel who fill noncombat roles. What will happen if there are not enough male volunteers to meet the target of 250,000 by 1985? Will we take male draftees who could fill combat positions and place them in noncombat positions intended for women?

Debate about assignment of women to combat roles unnecessarily clouds the central issue—how the Nation can best mobilize itself for war.
challenged. Neither the Defense Department nor the other administration witnesses were in favor of assigning women to “combat” positions. Neither suggested that women and men would have to be drafted in equal numbers. All assumed a separate draft that would select women only for those positions which have been identified by the military as capable of being filled by women alone.

As Selective Service, Defense Department, and Office of Management and Budget witnesses said at a March 19 hearing of the Armed Services Committee’s subcommittees:

The President’s request for authority to register young women recognizes the reality that women are already providing all types of skills in every profession, including the military. The fact that women can perform effective service in the military is strongly supported by their record in past wars and in the peacetime Armed Forces. While often unrecognized, women have played an important part in the defense of the Nation in previous wars.

As the witnesses pointed out, women served as Army nurses and telephone operators in World War I. In World War II, Navy and Coast Guard women served as nurses, mechanics, truck drivers, parachute riggers, airtraffic controllers, and typists. Women landed on the beaches of Normandy and served in the South Pacific, North Africa, and during the invasion of Italy. In Vietnam, more than 7,000 women served in support roles which qualified for combat pay.

Our military services have opened many new jobs to women in the past few years. Today, 46 percent of all enlisted women are in nontraditional jobs. As administration witnesses told this subcommittee:

The work women in the Armed Forces do today is essential to the readiness and capability of the forces. Our experience shows women performing well in a wide variety of jobs; being promoted as soon as men on the average; having higher test score average than both in high school completion. The President’s decision to ask for authority to register women is therefore based on considerations of performance and equity.

The administration witnesses suggested that the question should be why women should not be registered, rather than why they should be. I agree with the contention that the burden of proof falls on those who would exclude women from this obligation.

If there is a mobilization, we will need a large infusion of both combat and noncombat personnel. It simply does not make sense to eliminate over half the eligible population of this Nation. The administration’s policy of consideration to fill those noncombat roles is a simple matter of principle.

I share fully the position stated by the administration at the March 19 hearing:

Finally, we would emphasize that although the equity argument is important, it does not lead us to conclude that women should be inducted in equal numbers. Equity is achieved when both men and women are inducted in the same proportion to the ability of the Armed Forces to use them effectively. The administration’s firm policy that women will not be assigned to units in which close combat would be part of their duties. At the time of mobilization, the criterion of military efficiency will determine how many women will be used. The ratio for women as well as men will be determined by military need.

That hearing brought out the fact that the administration had not given sufficient, well-thought-out, though perhaps temporary, changes in the law which are necessary so that the services can draft according to their needs. I would hope that effort is underway at the Pentagon. If we should face a right national emergency, we must be able to meet it with the full and most effective use of all our resources—which includes the talents of both our men and women.

Contrary to the conclusion of the Armed Services Committee, I believe that the constitutionality of excluding women remains to be resolved. No one has addressed the issue of constitutionality and I hope that the Senate does not pass legislation without addressing the question: If the Department of Defense states it can accept 250,000 women by 1985, if mobilization occurs at that time, and if we have an insufficient number of women to fill the positions, what is the rational basis for drafting men for those noncombat positions?

So, I feel that registration of women, if there is to be a registration at some point, is essential. I also would be to deny their capabilities and the excellent level of service they have given to their Nation.

The incompleteness and superficiality found in the treatment of the registration of women is endemic to the entire draft registration proposal. The Department of Defense apparently has not made the determinations on the mobilization requirements in specific areas. Replacement estimates are gross figures based on various scenarios. What needs to be developed are specific plans for the mobilization scenarios, with approved requirements for assignments, tour lengths and other elements. Specific combat/noncombat personnel requirements should be established, and the administration's calculations of having a significant number of active duty personnel in the force with statutory combat restrictions.

Further, there needs to be a ruling on the procedures to be used in the event of a draft: After classification, should there be two lists of eligibles prepared, one for combat-qualified personnel and the other for those physically/mentally qualified for other than combat positions? If this were done, women and those men not qualified for combat positions would still have the opportunity to be called to serve in a national emergency. Many in the noncombat group have skills and abilities that could be valuable to the security of the Nation in a national emergency.

The issue of women after mobilization and development of complement­ary draft-eligible listings should properly be addressed before mobilization, but after the implementation of the basic mobilization systems. Not all men can serve in combat. This is not necessarily a reason why they should not be included on the draft-eligible listings for other than combat requirements, with separate draft calls for each category depending on the requirements on the Nation.

The issue has been looked at in terms of the peacetime environment in which the Nation is currently operating. We have to look to the future, to the type of catastrophic national emergency under which Congress would authorize the President to subject young women to the draft. Congress is not ready to authorize the President to set up a selective service system which would target another part of our manpower requirements in mobilization. How can we be certain that we can afford to ignore the capabilities of half our population when a mobilization occurs? How can we be certain that the next war will be like the last one, or the one before that?

To exclude the involuntary service of women out-of-hand would be imprudent. At the very least, the Defense Department should be required to provide detailed plans and programs for the induction and use of women, along with noncombat-qualified males, in a national mobilization effort. The Congress must be able to determine if this valuable resource should be ignored in maintaining the security of the Nation.

Mrs. KASSEBAUM. Mr. President, I am appreciative of the Presiding Officer. Will the Senator from Kansas suspend momentarily? There will be order in the Senate.

The Senator may proceed.

Mrs. KASSEBAUM. Mr. President, I am appreciative of the support that I had on the amendment in order to have a debate on this issue because I do feel that it is an important one and I think a number of Senators do also.

Registering women as well as men is a matter of simple commonsense and equity. The number of women in the armed services has increased dramatically in recent years, and they now compose over 8 percent of our military manpower. This number is expected to grow to 12 percent by 1985. By all accounts, women in the service are performing well and are making significant contributions to our defense capability. In the event of a national emergency, women as well as men will be needed—just as they have been needed in past conflicts.

In mentioning the need for women in the service, I want to make it clear from the outset that I am not talking about placing women in combat positions. President Carter, Defense Secretary Brown, the Joint Chiefs of Staff, and the NATO Commander, General Rogers—all of whom have endorsed the inclusion of women under registration—are not talking about women in combat. In the past, women have served in key noncombat positions. They have done so because they were qualified to do the job.

To place the combat issue in perspective, we should keep two things foremost in mind. One, the nature of the military today is such that—even with current restrictions against women in combat—there are few occupational specialties with the leaders from which women are excluded. Second, efforts to link the

questions of registering women and placing them in combat involve an insupportable leap in logic. The recent graduation of the first women to enter the service accorded them the...An attempt was made during debate over admitting women to link the academy and combat issues. Congress correctly rejected the idea that these concepts are linked.

It is significant, I feel, that a Selective Service report issued this January included assumptions regarding the number of women who would be needed by the Nation...wife.
That, I think, would hold precedence if and when we would be discussing conscription.

Mr. WARNER. I yield to the Senator for the Senator for the Senator for the time being.

Mr. JAVITS. I need the floor on my own time, unless I can get unanimous consent to be yielded to and use my own time.

The PRESIDING OFFICER. I say to the Senator from New York that the Senator from Michigan was on his feet at an earlier stage before the Senator from New York. The Senator from Michigan still has the floor.

Mr. WARNER. Mr. President, I will momentarily yield the floor. First, however, I would like to read to my colleagues the report of the Subcommittee on Manpower and Personnel of the Senate Armed Services Committee on the rejection of legislation requiring the registration of women.

The report is as follows:

Report of the Committee on Manpower and Personnel on the Rejection of Legislation Requiring the Registration of Young Women under the Military Selective Service Act

The Subcommittee rejected a proposal to require the registration of young women under the Selective Service Act.

Mindful of the Congress’ constitutional duty under Article I, section 8, to "raise and support Armies," to "provide and maintain a Navy," and to "make Rules for the Government and Regulation of the land and naval Forces," the committee has carefully analyzed the available data and capabilities. The Committee has expressed its serious concern over manpower problems that are so severe that the Military Services and the Nation are not now capable of meeting our national security requirements in terms of manpower in the event of mobilization. Peacetime registration will solve some, but not all, of these problems.

In 1979 the Committee reported a bill (S. 109) mandating peacetime registration of males. President Carter, in his State of the Union Address in January 1980, recognized the need for registration to improve our defense posture. The question of whether women should be registered became a dominant part of this discussion, confusing the real military issues and the peacetime implications of registration.

The Committee has found that the military services are not now capable of meeting national security requirements in terms of manpower in the event of mobilization. Peacetime registration will solve some, but not all, of these problems.

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The Committee has found that the military services are not now capable of meeting national security requirements in terms of manpower in the event of mobilization. Peacetime registration will solve some, but not all, of these problems.

The principle of equality is not at issue in the debate over registration. The debate is not whether women should have equal rights, but whether the government can make the best use of the available manpower.

The need for registration is as real today as it was in 1979. The military services continue to face manpower shortages. The Department of Defense recently announced that it will seek to increase its forces by 300,000 personnel. The ready reserve is now down to about 42% of the goal.

The Committee believes that the government should be allowed to make decisions about the best use of the available manpower. The committee is convinced that the best use of the available manpower is not to require registration of women.

First, the President’s proposal does not include any change in section 8(a)(1) of the Selective Service Act, which requires that the draft be conducted impartially among those eligible. Administration witnesses defended the provision of the law that probably precludes induction of men and women on any basis but a random basis, which should produce roughly equal numbers of men and women. Second, it is conceivable that the courts, faced with a Congressional decision to register men and women equally for military service in a war emergency, would find the insufficiency justifiable for them inducting only a token number of women into the Services in an emergency. Indeed, it is hard to see how the equity which is the aim of advocates of an equal registration system is achieved by a system under which a vastly larger number of men would actually be called to duty. If the Congress were to mandate equal registration of men and women, there would be faced with a situation in which the combat replacements needed in the first 80 days—assuming all men are accompanied by 100,000 women. Faced with this hypothetically, the military witnesses stated that such a situation would be intolerable. The military witnesses argued that the training system, would clog the personnel administration and support systems needed for the induction of women and that precluding their conscription at a time of great national need.

Other administrative problems such as housing and distribution of families, as well as the impact on dependency, hardship and physical standards, would also exist.

Finally, the Committee finds that there are important societal reasons for not changing our present male-only system of registration and induction. The question of who should be required to register and to be called to service is a question of public policy that should be determined by the political process. The Committee reaffirms its conviction that the courts, faced with a Congressional decision to register men and women equally for military service in an emergency, would find the insufficiency justifiable for them inducting only a token number of women into the Services in an emergency. Indeed, it is hard to see how the equity which is the aim of advocates of an equal registration system is achieved by a system under which a vastly larger number of men would actually be called to duty. If the Congress were to mandate equal registration of men and women, there would be faced with a situation in which the combat replacements needed in the first 80 days—assuming all men are accompanied by 100,000 women. Faced with this hypothetically, the military witnesses stated that such a situation would be intolerable. The military witnesses argued that the training system, would clog the personnel administration and support systems needed for the induction of women and that precluding their conscription at a time of great national need.

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Other administrative problems such as housing and distribution of families, as well as the impact on dependency, hardship and physical standards, would also exist.

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Other administrative problems such as housing and distribution of families, as well as the impact on dependency, hardship and physical standards, would also exist.
Congressional Record—Senate 13881

June 10, 1980

In the Committee’s view, the arguments for treating men and women equally—compelling in many areas of our national life—simply cannot overcome the judgment of the Constitution and of Congress that it is impossible to provide an adequate level of protection against conscription and of women, and that a draft registration system would not meet the constitutional requirements.

Mr. President, I ask unanimous consent to have printed in the Record the Yale University letter of May 2, 1980, addressed to Senator Nunn. That letter addresses the issue of conscription and is signed by three distinguished professors of law at the Yale Law School.

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

YLAE UNIVERSITY LAW SCHOOL,
New Haven, Conn., May 2, 1980.

HON. SAM NUNN,
Committee on Armed Services,
U.S. Senate, Washington, D.C.

DEAR SENATOR NUNN: We are glad to respond to your request for our opinion on the constitutionality of conscription limited to men. This letter will not consider whether the United States should restore the draft at this time. We shall raise the policy of conscription, and then draft men without drafting women. It will be confined to the question whether recent judicial decisions make the defense of the sexes under the Constitution—or, indeed, the possible ratification of the Equal Rights Amendment—meanless or impossible.

We conclude that the law is and will continue to be possible. Congress may conscript men, or women, or both men and women, in the exercise of its constitutional discretion to raise and regulate the armed forces. It is necessary and proper to defend the interests of the nation. If Congress should decide that the conscripting of men is an appropriate way to create the kind of armed forces the United States requires to deal with threats to its security, as Congress perceives those threats, no court could challenge its decision.

Under this as it stands, and under the Equal Rights Amendment, if it should be ratified, Congressional decisions of this order are “political questions” entrusted by the Constitution to the judgment of Congress and of the President. Those cases stand, and the military power. Those cases struck down as unconstitutional laws under which the conscription of men is an appropriate response to your request for our opinion on the constitutionality of conscription limited to men. This letter will not consider whether the United States should restore the draft at this time. We shall raise the policy of conscription, and then draft men without drafting women. It will be confined to the question whether recent judicial decisions make the defense of the sexes under the Constitution—or, indeed, the possible ratification of the Equal Rights Amendment—meanless or impossible.

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considered wars of national self-defense or otherwise "just" wars, both appellants relied inter alia on the establishment clause of the First Amendment, objecting to the preferential treatment of men in the military establishment of potential enemies, as declared by Congress, would have been likely defeated by the formidable military establishment of potential enemies, a considerable call-up of armed men without notice that would have occasioned the Constitution should be interpreted to require Congress to treat men and women alike in the draft, and provide women with any more than it needs to staff non-combat jobs in the military. As a result, the equal draft rights of such a group and unnecessary discretion to no purpose that could not be served better by the enlistment of women in appropriate numbers for non-combat service.

Thus the essential problem faced by Congress in deciding whether to draft men but not women is altogether different from the policy considerations which led to the laws and regulations reviewed in cases like Frontiero v. Richardson, 411 U.S. 677 (1973). That case held unconstitutional a statute which provided that for the purpose of obtaining medical and dental benefits, a serviceman may claim his wife as a dependent whether or not she is in fact a dependent of men. Nor may he claim her husband as a dependent under these programs unless he is in fact dependent on her for more than half his support. The case concluded that for men and women, the constitutional issue is quite different.

The Gillette case is in itself sufficient modern design of a statute. What the constitutionality of a conscription program confined to men. After all, discrimination based on religious beliefs is a type of discrimination based on sex. We shall, however, also consider some of the recent cases on discrimination between men and women much discussed by opponents of the draft. We do not believe that the recent development of constitutional law represented by those cases would give Congress power to make a draft which would conscript men without conscripting women. The Equal Rights Amendment, if ratified, would not alter this conclusion.

Much has been made of the announcement of the leaders of the sects in determining the constitutionality of gender based distinctions under the Fifth and Fourteenth Amendments. Discrimination by gender is a "suspect classification", it is said, and courts will no longer be satisfied by a showing that there is a "rational basis" for a Congressional declaration of any other rule for conscription. Such a decision by Congress should be upheld only if the government meets a heavy burden of proof which the courts apply after a draft which would conscript men without conscripting women. The Equal Rights Amendment, if ratified, would not alter this conclusion.

It is doubtful in our view whether these contrasting formulae have real rather than symbolic legal significance. And the issue is irrelevant to the problem addressed in this letter. A Congressional decision to conscript men but not women would be upheld under the most severe and suspicous version of the constitutional test. The issue is rooted in the nature of the problem of organizing military forces capable of victory under contemporary circumstances. The case for conscripting men only would overcome any rational objection.

In order to examine the question in terms of Holmes' thesis quoted at the beginning of this letter, we start with the proposition that American society today will not consider drafting women for combat service. Whether this constitutes a "cultural moral judgment or a prejudice, a "felt necessity" or an echo of earlier, chauvinistic beliefs about the proper role of women in life, the existence of the belief is not in issue. 

Under the statutes women cannot be assigned to ground combat units, and if Congress decides to resume conscription, it will face a simple mathematical problem. In order to raise armed forces large enough to fight a war, Congress would have to draft many more men than it needs to staff non-combat jobs in the military. To do so, it would have to treat men and women alike. (456 F. Supp. 2d 673 (C.A. 9th, 1979).)
think it would be very difficult to apply in the courts the doctrine he uses, because not everybody is assigned to combat if one is a man. One might be assigned to a typewriter, or an adding machine, or numerous other noncombat activities.

It seems to me that it is well within the power of the Commander in Chief to determine what will be one's duties once one is in the Armed Forces.

Women should not be in combat. They will not be in combat. No court will make any Commander in Chief put them in combat any more than the court can make some Commander in Chief put a new recruit into combat.

But, be that as it may, Mr. President, I think that answers the question.

I would like to ask the author of the amendment a question.

There are women in this country who have a conscientious objection to registering at such time or times, whether that power is under this amendment?

Mr. WARNER. As drafted by the Senator from Kansas, I do not believe that it would change.

Mr. JAVITS. I thank my colleague. If that is the view of the staff and if this amendment passes, I will take a good look at it and perhaps, that discretion that this amendment will be required at a later time making the same provision for women as for men in section 453.

Mr. WARNER. I expressed it as my view, although I have the benefit of counsel here.

Mr. JAVITS. Yes. That is very important, because it is a matter of first impression to me.

Mr. WARNER. As my distinguished colleague will note, because of his statement to that effect, does the Senator feel that the amendment is not the longstanding precedent of excluding women from combat? What is it that my colleague feels is now the basis on which the Commander-in-Chief excludes women as for men in section 453?

Mr. JAVITS. I think it is competence and fitness for combat. The Commander in Chief cannot be ordered by any court.

Mr. WARNER. Right now, based upon my interpretation of the rules of the Supreme Court of the United States, the Court has held that, under the Constitution of the United States, the power to establish the President and the Congress have the power to establish rules providing discrimination, such as only men go into combat. The Court's interpretation of the Constitution gives the President and Congress jointly that power, which literally has been the law of the land for over 200 years.

Mr. JAVITS. Is that the view of the Federal courts that we take the first legislative initiative in our history to provide for equity between men and women at the first step in their military careers, the Federal court system will say 'Equity at the beginning is out of the question.'

Mr. WARNER. I am sorry—I do not go with the Senator on that. I believe that the power of the Commander in Chief would continue in that case for women as it would for men.

Mr. JAVITS. That is my own opinion. If we take the first legislative initiative in our history to provide for equity between men and women at the first step in their military careers, the Federal court system will say 'Equity at the beginning is out of the question.'

Mr. WARNER. No, but right now.

Mr. JAVITS. The PRESIDING OFFICER. The Senator from New York has used 6 minutes of his time.

Mr. JAVITS. I yield myself 1 additional minute.

Mr. WARNER. At what point, then, in the military career, in the Senator's judgment, could the President re impose discrimination?

Mr. JAVITS. He is a commander. It is not a discrimination. I have given the Senator an example. Does everybody go into combat? That is the beginning.

Mr. WARNER. No, but right now.

Mr. JAVITS. Yes.

Mr. WARNER. I refer to this provision which I am informed applies only to men. Perhaps this issue can be clarified by my distinguished colleague.

Mr. JAVITS. I think what I am trying to ascertain is this, once this amendment is passed, it would have to apply to women, as well, if it is passed.

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

The PRESIDING OFFICER. The Senator from New York has the floor. Mr. JAVITS. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan has been on his feet for some time. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am a co-sponsor of this amendment with the Senators from Michigan (Mr. BOREN), and I should like to respond to the Senator from Virginia.

He said that if we provide for the registration of women, a Federal court is going to order that women go into combat. I do not know of any opinion which supports that.

This recommendation came from the President of the United States. Presumably, it is based upon the advice of the Attorney General of the United States. I do not know of any court opinion, I do not know of any legal opinion of a lawyer, private counsel which supports the position of the Senator from Virginia that if the Senate of the United States decides that it wants to register women, somehow or other that is going to require that women go into combat.

I remind the Senator from Virginia that the same arguments were made and Congress lifted the prohibition on women going to the military academies. The same argument was made: If you allow women in the military academies, let the women go to West Point and the Naval Academy, women are going to end up in combat.

The same arguments were heard on the floor of the Senate, and that has not been the result. The result has been that women have volunteered for the services, have served this country well, nobly, and admirably, and the commanders of women have said that they are on a par.

Nobody has suggested any more that because women are allowed into the academies and into the Armed Forces, there is some logical conclusion mandated that they must go into combat.

I ask the Senator from Virginia that question: Let us take a woman now in the Military Academy or in the armed services. She starts a case in the Federal court; she is going to allow her into the Army; I have been allowed to take this first step; the academy has been opened to me. I now qualify for combat.

Does the Senator from Virginia think the court would uphold that case?

Mr. WARNER. In my judgment, the Federal court would uphold the right of the Commander in Chief to deny that woman the opportunity to volunteer for a combat position. The basis upon which the court would do it is a long line of decisions which have sustained the right of the Commander in Chief, not to let women go into combat because that is the public policy of our Nation. Further there are statutes and regulations excluding women from combat.

The fact that we are sitting here with my distinguished colleague from Michigan as to the distinction between women serving today is that every woman in uniform today is there by virtue of the voluntary action her part of enlisting, and that is the way it has been throughout the history of our country. The proposed draft registration law would be the first turning point, where a woman is brought into military service by an involuntary act. That is the distinction.

Mr. LEVIN. The Senator from Virginia—that is a distinction. It is a distinction without a difference, for two reasons.

First, the Senator from Virginia says that because the public policy of the country these are his words—that women should not go into combat, a Federal court would not grant that, under present circumstances. There is no effort to change that law. There are military regulations prohibiting it, and there is no effort to change those regulations.

I do not know of any opinion that the court would uphold the right of the Attorney General of this country to deny that woman the opportunity to volunteer like the men.

Mr. WARNER. I have submitted for the RECORD, as part of my colleague, opinions on this point by distinguished legal scholars, upholding the right of an all-male draft registration law.

In response to my colleague's very interesting point, with which I disagree—nevertheless, in response to it—that a woman who has volunteered has a greater right to go into combat, I point out that at the time she volunteered, she had implied or actual knowledge of the fact that she would be denied the right to go into combat. She accepted her country or, as in the registration of peacetime registration, I think it should be extended to all members of our society, to men and to women. I wish to see all citizens who have something to contribute given the opportunity to make that contribution.

I certainly agree with that position which is offered by the proponents as the moral foundation for their call for registration, even though I do not share their conclusion.

But since I do believe that this obligation, if we extend it at all by way of registration, I think it should be extended to all members of our society, to men and to women. I wish to see all citizens who have something to contribute given the opportunity to make that contribution.

I start, then, from this basic premise that while I oppose registration because it is not needed and there are other alternatives, my opposition is rooted in practical rather than philosophical terms. I am not opposed in principle to requiring members of this society to serve in the Army if they have an obligation to defend this country. It is brought out with the Attorney General of the United States.

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Indeed, I believe that act while not needed does remind people of what they are fighting for. It reminds people of what they are fighting for, and I think it is a reminder of a goal, that I would not wish to see women excluded from being a part of it.

As I read the Constitution and the emerging law of this Nation, there is an overriding justification for registering women in terms of consistency with and fidelity to the concept of equality.

I have not, it is true, of the registered or drafted women in the past, but there are a lot of things we have not done in the past which we do now. Times change. Mr. President. We live in a society which recognizes that laws, customs, and mores evolve and grow.

Years ago we accepted the concept of separate but equal. It was the law of the land and it was the custom of our culture. We now recognize that the doctrine of separate but equal denied basic values of equality and equity.

Years ago women could not vote. We corrected that inequality. Years ago...
women were not eligible for the military academies. We corrected that inequality and modified the law.

I think we are in a similar position in terms of the emerging struggle for other civil rights for women.

Mr. LEVIN. Members of this Chamber I believe have endorsed the Equal Rights Amendment to the Constitution. It presents a growing recognition of the role that women have and should be guaranteed. It just does not seem to me consistent or proper for us to talk of opportunity on the one hand and deny responsibility on the other.

But what this seems to suggest is that the principle of equity is overcome by more practical concerns about how registration of women would impact on our military capacity, and I wish to spend a few moments addressing that argument.

Let me begin by saying that there is a clear military justification to register women. The committee has reached that conclusion because as a member of the Armed Services Committee I have had an opportunity to study the role women now play in our military forces, and I have been impressed by it, and let me spell out those conclusions that I have reached as a result of this study.

First, women in noncombat positions have made significant contributions to the military. No one disputes that point. Women are now restricted and should in the future be restricted to noncombat roles. Our society mores allow no other conclusion.

But within the context of this limitation, even the Manpower Subcommittee in their report rejecting registration for women indicated that "Women now volunteer for all military services and are assigned to most military specialties. These volunteers now make an important contribution to our Armed Forces."

The committee appears to commend the increasing number of women who volunteer for the services and expresses the hope that such trends will continue. They have indicated that women have made significant contributions in noncombat roles and they can be expected to continue to make the same sorts of contributions in the same noncombat roles in the event that mobilization is required.

Second, in the event of mobilization there will be a military role for an increased number of women. While the Manpower Subcommittee concluded there would be no need specifically for women in the event of mobilization, they did not deny that there would be a valid and valuable use for women after mobilization.

In fact, they received testimony from Richard Danzig, the principal Deputy Assistant Secretary of Defense for Manpower, which indicated that of the 600,000 people needed after the first 6 months of mobilization, at least 80,000 could usefully be women with no women going into combat.

They have also had the opportunity to study the Maxvacc and the Rostker reports which indicate that the Armed Forces could absorb up to a 35-percent female base without in any way interfering with combat readiness.

So while there may not be a military need for women, there is a significant military justification for using them in a period of mobilization.

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

Mr. LEVIN. I am happy to yield for a question.

Mr. WARNER. During the course of the testimony that our subcommittee took on this question of including women in registration, Chairman Nunn put to the President the witness the following question:

If the lottery wheel, or whatever device determines which individual goes, falls on a young woman, say, of 21 or 26, whatever her age may be, is she married and just had a baby, does she get called up or does she remain?

The answer was she must go and the husband stays with the 6-month-old baby.

That is the way this particular law is written. There is no exclusion in the present law that distinguishes. But if you propose to have equity and at the same time protect a young mother from surrendering child care and going off to boot camp leaving the baby with the husband, then you make a real and meaningful contribution to our Armed Forces.

We heard this morning that conscientious objectors were not the issue here; that later on during classification debates we could take care of that problem.

We can take care of the problem the Senator from Virginia opens during the classification debates.

Mr. WARNER. But your amendment simply states, and I quote:

On page 2, line 14, strike the period and insert a comma and the following language: "or shall be made available for implementing a system of registration which does not include women."

Mr. LEVIN. It is perfectly clear and perfectly responsive to the question of the Senator. Women should be included. How they are classified once they are included is a separate question down the road, and whether or not they are even ever drafted is a separate question down the road. We went through this whole thing this morning on CO's.

Mr. WARNER. Then I draw to my colleague's attention that the law is on the books. It makes no provision at this time for excluding a young mother. Our Nation could be drawn into an emergency military situation tomorrow and that law is inapplicable law. If the Senator were to prevail in his amendment, the amendment would then require women to go register and become eligible for a draft irrespective of their family situation.

Mr. LEVIN. There are two answers to that question that I will get to in a moment in my remarks, but let me briefly dispose. First, I would like to make a commitment in statements from Senator Stennis that there are going to be hearings on the classification system and on the selective Service System.

The problem raised by my friend from Virginia can be adequately dealt with during those hearings.

Second, the Selective Service System is dormant. It is not now activated. The President will have to request us to activate it and, as part of any request, the President could exclude women if we are not ready with this kind of classification or, if we are ready, could allow women to be registered.

But there is, No. 1, a time to do this and, No. 2, there is a forum to do what we need to do. Senator Cranston of Oregon discusses the drafting of women upon request of the President I have enough confidence in us that we would do the right thing and manly we will and that all of the other women for whom the Senator has expressed concern, just as we would do the right thing about conscientious objectors and other classifications of people who should have some protection.

As I indicated, Mr. President, while there may not be a military need for women, there is a significant military justification for using them in a period of mobilization, and that justification is they do excellent work and that there are significant opportunities for them to make a real and meaningful contribution in noncombat roles.

Third, the Manpower Subcommittee itself seems to accept the fact that there will be a justification for an increased number of women in our Armed Forces after mobilization, and that justification is they do excellent work and that there are significant opportunities for them to make a real and meaningful contribution in noncombat roles.

I want to repeat that: the Manpower Subcommittee said that "Women volunteers would fill the requirements for women." In short, the Manpower Subcommittee seems to acknowledge specifically a requirement for women, and raises no practical or theoretical objection to increasing the number of women in our Armed Forces after mobilization.

They simply say they believe we can at least make a real and meaningful contribution in noncombat roles.

In response, I would simply indicate that they have no empirical data that I know of to support that claim. In fact, testimony before the subcommittee suggests that there were not sufficient data available to draw any conclusions.

Robert Pirie, Assistant Secretary of Defense for Manpower, in February of this year told the committee that "Perhaps we would have women volunteers would come forward to meet this need, perhaps not."
Having our young women register in advance would put us in a position to call women if they do not volunteer in sufficient numbers.

Clearly the evidence that I am aware of suggests that there is a use for more women in a mobilization, and that we cannot require, in essence, that level through volunteers, then there is additional reason to register women and to remove the uncertainty. That, after all, is the thrust of the entire argument used by proponents of registration of men to justify their position.

Mr. President, while both equity and military utility justify registration of women there are still some who suggest that there are compelling disadvantages which ought to cause us to reject that policy. These alleged disadvantages do not, in fact, lead to registration. Rather they arguably flow from the decision to turn to that registration base in a period of mobilization.

If we read the Manpower Subcommittee report, it is readily apparent that these disadvantages flow from the decision to draft people from the registered base rather than from creation of that registration base.

Some opponents of this amendment argue if we made a decision to draft under current law we would very well be required to draft an equal number of men and women. Such an action would significantly impair our need to meet vital combat needs. That concern might be an important consideration, if it were not easily correctable, as I have indicated in my prior colloquy with my friend from Virginia.

For those who advance this argument, they do so on the basis of existing law which we say that we should be conducted in an impartial manner. They fear the requirement of impartiality would result in an equal number of men and women being drafted, and they legitimately ask how we can maintain equal numbers of registration. They fear the result would not be consistent with, indeed might even interfere with, our most pressing military needs.

But this argument ignores the fundamental fact that before any man or any woman can be drafted, Congress must authorize the Selective Service Act, an act which now lies dormant. There are two available occasions to correct any deficiency which would require us to draft an unneeded number of women: First, Chairman Stevens indicated he was interested in seeing the Armed Services Committee do a thorough analysis of the act, and I also believe that Senator Nunn and others who seek to reestablish the draft would not move in that direction if we registered women until they had done a thorough analysis of the act and suggested the appropriate modifications.

Since as far as I know, at least, we have no immediate plans to mobilize, I have the time we need to revise the Selective Service Act and accommodate, where necessary, our decision on registering women and make them eligible for the draft.

But, second, if we were confronted in the interim period with an immediate need to mobilize and a draft authorization were requested, and if the legislation itself in the form passed by the Senate did not take into consideration the fact that women are registered, any congressional authority to draft people could simply include the proviso that the requirements that an equal number of men and women be called into service.

Based on the report of the Manpower Subcommittee, such a proviso would be constitutional since, as they say and as my friend and as the sponsor of this and the author of this amendment, the Senator from Kansas, has indicated, the courts would defer in the judgment regarding our military needs.

Finally, let me urge that opponents of this amendment remain consistent in their arguments. As I read the record of this debate, it appears to me that the bill we have before us is a call for registration, not a call for the draft. They have held that these issues are separate. Indeed, the bill itself reads that way. If that is the case, then how can we reject registration because only an unpredictable request to draft people would allegedly cause these problems? Whether the issues are separate or they are not, if they are not, they suggest their arguments against registration of women are premature. If the issues are not separate, proponents of the bill should drop their argument that a call for registration is not a call for the draft.

Mr. President, let me summarize the arguments I have made. First, I believe that notions of simple equity in understanding the role of women in modern society and the desire to foster a sense of social consciousness require us to register women if we register men. Second, regarding a draft, I believe that women should be drafted in reasonable numbers for noncombat roles in order to help us meet our military requirements in a time of mobilization. The evidence is clear that they can help us meet those requirements and that we cannot be assured that a sufficient number of females would volunteer in the absence of a draft. Third, within reasonable restraints related to retaining the noncombat restrictions now placed on women and modifying the existing requirement that a draft fall evenly on all members of the registration pool, there is no military disadvantage to registering women or drafting them.

Mr. President, I suspect that the arguments I have advanced here may rest too heavily on my own belief that women ought to be drafted. If there ever were a draft, in reasonable numbers to fill noncombat roles. For my colleagues who perhaps do not accept that notion—who want more time to think about the issue— I would say that this amendment does not require us to draft women any more than it requires us to draft men. It simply empowers Congress to make that decision if we choose to make it at a later time. It does not foreclose the option to reject the draft for women—in fact, it gives us more options than we will have if the amendment is defeated.

Mr. President, let me conclude by returning to what I consider the basic issue, the principle of equity. I believe that equality requires, as nearly as possible, that all citizens be treated with our values and mores, equal obligation and equal opportunity. That is all that this amendment offers women and that is all that it requires of them, and that is all that it says to a Amendment which would accomplish the goal of equity without any negative military consequences. And my sense of values leads me to conclude that, if that is the case, then we ought to vote for this amendment and we ought to vote for equity. To do other than that, Mr. President, is to turn our backs on the evolution of civil and constitutional rights which we have witnessed and been a part of in this last decade. To do other than is to deny over one-half of this Nation the right and the duty and the obligation to help defend this Nation when the time comes to do so. To do other than is to reject the requirements that our emerging sense of humanity has imposed upon us.

And what is that sense that is to ignore the personhood of half of our citizens and the contributions women have made in large and growing numbers in our armed services?

Mr. President, I am proud to be a co-sponsor of this amendment and I congratulate Senator Kassebaum for offering it and for fighting so eloquently and, so far, successfully for its adoption.

I yield the floor.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER (Mr. DeConcini). The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield to myself a portion of my 1 hour's time on this particular legislation.

Mr. President, I have been most interested in the debate up to this point. It is a hot one. We have been talking about registration, but it sounds like we are talking about the draft. It is much like talking about land use planning and zoning, and that is a hot subject of zoning. There are two distinguishable issues but they are just as hot.

I commend my colleagues for their tenacity and perseverance, and especially my seatmate back here, Senator Kassebaum and my fine friend, Senator Levin. I wish to speak in support of their efforts and wish to note that I am honored to cosponsor their amendment.

Mr. President, I have been seriously concerned in recent years that the absence of a compulsory registration system has eroded the ability of our Armed Forces to maintain manpower requirements in the event of a national emergency. Without some system of prior registration, I personally believe that it will require at least a year or more to mobilize the Nation's mobilization capability is wholly unacceptable and that it directly affects our
But I shall not understand why the President and his advisers committed our youth to a struggle on behalf of the South Vietnamese nation unwillingly to make the sacrifices necessary to match their adversary in the desire to prevail.

Well, we fought a war that we were politically unwilling to take the risks necessary to win, so very possibly we fought only to demonstrate our willingness to fight.

Some in this Chamber, Mr. President, might believe that the way to avoid such a mistake in the future is to deliberately weaken our Defense establishment to ensure that we never again possess the capability of undertaking such a war. I must categorically state that I believe that such an argument or policy is totally vacuous and irrational. In these times of increasing tensions and dangers, we cannot afford the folly of unpreparedness.

The time has long since passed—if it was ever really there—when we could retreat behind our two ocean frontiers and ignore the threat to our own security. We must have a strong military and we must insure that the members of our armed services possess the necessary intelligence and level of technological skills necessary to fight and win in the future.

I was impressed by what my colleague Roger Jepsen said the other day. He said:

There are several things worse than war, and they all come from defeat. Those things are bondage, torture, and slavery, and then you use your own imagery to fill in the blanks.

The only rational way to avoid the pitfalls of a Vietnam is to insure that the armed services represent a true cross section of our society, of all social and economic levels, and both sexes. The President, who commits such a force must commit not just an insular element of a society, but the whole society itself, and he and this Congress must assume the political risks that such a commitment calls for.

Therefore, Mr. President, I am prepared to support the pending legislation in the hope that it will eventually lead to an equitable system of national service in which military service on active duty or in the Reserves would be available options, and that there would be other options which would include various public employment programs. That is very important to me in this kind of legislation. Such a system would emphasize voluntary participation, but if the strength of either the Active or Reserve Forces falls below statutory authorization levels, then, and only then, would a draft based upon a universal lottery be conducted in order to make up the shortfall.

I cannot envision, Mr. President, any equitable system of national service that does not include young women as well as young men. I do not support the proposal. I do not believe that our society would tolerate it, and I know I could not bring myself to support their inclusion in the ranks of our infantry, our armor, and our artillery combat battalions. But women are citizens and if ever committed to serve the country through assuming the responsibilities that citizenship entails, I can see no logic in excluding them from the requirement for registration.

Mr. President, in concluding, I have two young sons aged 21 and 23 whom I love quite dearly. They would both be registered under the pending legislation and, therefore, subject to conscription in the event the authorization levels dictate that we have a daughter who will reach her 18th birthday within the year. We have had some rather fascinating family discussions on this subject. We have carefully reviewed this seeming issue. They are not martyrs nor are they dogooders. They just say, “Well, why not, pop? It looks like it should be done.”

Under the provisions of the Kassebaum-Levin amendment my daughter would be treated no differently than my two sons. If we must, at some time, have a uniform policy, I think it appropriate that all be included as she has requested. I cannot imagine that I would feel any less concern in having one of my sons face the uncertainties of military service than I would if my daughter were to do so.

In all of the shot and shell which will swirl around this issue of registration of women, there has been one piece of writing that seems to stand out for me, an article from the Washington Post of February 2, 1980, by Ellen Goodman, entitled “Drafting Daughters.”

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

**Drafting Daughters**

Borrow.—My daughter is 11, and as we watch the evening news, she turns to me seriously and says, “I don’t like the way the world is.”—say things like that. My daughter is 11 years and eight months old, to be precise, and I do not want her to grow up and become one of these—call them—soldiers. My daughter is almost 12, and thinks about uncertainty and evil, about slaughtered seals and about being wronged and brutalized by war—as soldier or civilian.

As I read those sentences over, they seem to fit with a vividness which horrifies by the very idea that she could be sent to fight for fossil fuel or fossilized ideas. What I want to say is that I can imagine no justification for war other than self-defense, and I am scared stiff about who has the power to decide what is “defense.”

But now. In the last days before President Carter decides whether we will register young people and whether half of those young people will be female, I want to say one thing. Would I feel different if my daughter were my son? Would I be more accepting, less distressed, at the notion of her being drafted were my son? Would I feel any less concern in having one of my sons face the uncertainties of military service?

I cannot envision, Mr. President, any equitable system of national service that includes women as well as men. I do not support the proposal. But I must admit that I have been a bit surprised to see that several who served in Congress between 1965 and 1975 were drafted into the Army to fight in Vietnam.

I would venture to say that few, if any, were so engaged during that 10-year period of time, or ever had any reasonable apprehension that they would ever be subject to the draft. Yet, by the timidity with which we allowed the Vietnam War to retard our defense preparations, we allowed 500,000 U.S. troops in the Republic of Vietnam. I can understand that the North Vietnamese were fighting a protracted war of aggression against the South and I can even understand that our Nation may be called upon to assist an ally in a time of need.
civilized plague that leaves daughters alone to produce another generation of warriors. I know we will have to register women along with men anyway because the courts will require it. Women may not have voted yet, but they have "won" equal responsibilities. A male-only draft would surely be challenged and likely ruled unconstitutional.

But at a deeper level, we have to register women along with men because our society's repressions, war has been a part of the rage so many men have had against women.

We as in the hard-hat yelling at an equal-rights rally, "Where were you at two Jims?" War is in the man infuriated at the notion of a woman's challenging veterans' precedence. War is in the mind of the man who challenges his wife for having had a soft life. War has often split couples and sexes apart, into lives built on separate realities. It has been part of the grudge of self-sacrifice, the painful gap of understanding and experience between men's and women's lives. It is the stuff of which alienation and novels are written.

But more awesomely, as a male activity, a rite of passage, a test of manhood, war has been gruesomely acceptable. Old men who were warriors have sent younger men to war as if it were their work. The role until recently was to wave banners and sing songs, and be in need of protection from the enemy.

We all pretended that war was civilized. War had rules and battlegrounds. War did not touch the finer and nobler things, like women.

This was, of course, never true. The losers, the enemies, the victims, the widows of war were the men, sometimes the soldiers. Under duress and in defense, women always fought. But perhaps, stripped of its maleness and mystery, and cleared of the war, war can be finally dis-illusioned. Without the last trappings of chivalry, it can be seen for what it is: the last deadly game.

So if we must have draft registration, I would include young women as well as young men. I would include them because they can do the job. I would include them because all women must gain the status to stop as well as to start wars. I would include them because it has been too easy and to send them away I would include them because I simply cannot believe that I would feel different if my daughters were them.

Mr. SIMPSON. I know, Mr. President, that some of my colleagues support the pending amendment, not out of any conviction for what it will do, but in the hope that, if adopted, it will effectively kill the pending registration legislation. I want my colleagues to know that I support the Kassebaum-Levin amendment for what it really does, and if it should fail, I will still lend my full support to reinstating compulsory registration and vote for passage of the pending legislation.

I commend my two colleagues once again for their sincerity and very poetic expression on this amendment. It is quite typical of them both. I have come to greatly admire and respect them as persons.

Mr. President, rather than yield back the remainder of my time, I shall reserve it under the previous order of the majority leader.

Mr. President, I yield myself such time as necessary from my 1 hour.

First of all, Mr. President, let me explain my position very clearly on the issue of registration in general. When the time comes, I will vote against registration as well as this proposal to register women.

The reason I will vote against the registration of men is because I think the proposal itself is entirely cosmetic and superficial. As an answer to Afghanistan, I am sure the Soviet Union is just quaking in their boots at this daunting, strong proposal to send our post-card to people in the Soviet Union. The people are, with no classification, with no physicals, with a very difficult time enforcing it. It really is a great stroke of genius on the part of the President. But that is not the only reason I oppose it, because it is superficial and does not really accomplish anything as far as mobilization, as that it ignores the real manpower problem of the military.

Besides having served on the manpower Subcommittee of the Armed Services Committee and now in Defense Appropriations, I served 4 years active duty in the Air Force Reserve as a pilot. So I know something firsthand about the military. The real manpower problem is not new recruits. The real manpower problem is the incredible hemorrhage of skilled, trained, technicians, highly-skilled enlisted personnel who are skilled in computer technology, in radar, fire control, all sorts of very technical systems, who are getting out in droves; of pilots and navigators, officers who cannot afford to stay in any more. But we do not address that problem.

Even if we had a draft tomorrow, forgetting a cosmetic registration, it would do nothing about this hemorrhage of skilled personnel leaving.

Without where we have the bases to train them, as we close down more military installations to save money? Where would we have the equipment to train them, as we do not provide enough operation and maintenance fund to provide spare parts for our aircraft, when we have a military budget that will produce a net loss in the number of ships over the next 5 years, a net loss in the number of aircraft, when we continue to cut our defense budget in terms of real expenditures year after year, when we continue to have more than 100,000 military personnel on food stamps? And we wonder why they get out?

And then our answer to the manpower problem is a cosmetic draft? That is why I am opposed to registration. We should have said "registration," not "draft," because even a draft would not solve that manpower problem.

I am afraid that if this passes, then we will never have a war we will forget the real problem. Nothing will be done about it. The President can go to the carrier Essex and say, "We need $1 billion more for more pay," and then the next day tell the Congress that we are spending too much for defense. I do not know how he rationalizes those two positions, but that is what he said. He has had five defense budgets in his term, what he said on TV, the permissiveness.

Mr. President, I suggest we have the cart before the horse and we ought to reverse it and do something about the Reserves. We should start with the hemorrhage of manpower before we start with our 18-, 19- and 20-year-olds, talking about registration.

As to the immediate issue of the Kassebaum amendment, I say at the outset that some of the things I am going to say certainly do not attribute the motivation to my distinguished colleague from Kansas in this amendment. I have discussed it with her. I know why she is introducing it.

I want to make that clear at the outset, that on a lot of my opposition to this amendment I do not attribute her motivation for offering it to these various reasons that I oppose it.

First of all, in answer to this message of equity we just heard from my distinguished colleague from Michigan, it seems to me we cannot have it both ways. We talk about this being equitable and then, to every problem brought up with women, we say, "We have a draft of women," his simple solution was that we had enough trust in the Congress of the United States to make exceptions, to carve out exceptions. Yes, we want equality with men. Yes, we want to be registered. Yes, we want to be drafted. If that comes in the defense of our country, but then please carve out all kinds of exceptions that discriminate once again.

So the argument of equity does not make a great deal of sense to me. I certainly believe that women have a valuable role in the military if they want to volunteer.

I would not even object, and this may surprise some, to removing the combat restrictions to volunteers. If one wants to volunteer, let him.

But to talk about drafting them in voluntarily violates all the principles I have grown up with. May I, I am old fashioned, and I am sure some people will accuse me of living in the 18th or 19th century, but I was brought up to believe that the basic fundamental unit of this country was the family. This country was based on the family unit and a belief in God, and a belief in a religious heritage of whatever denomination, and that a family was composed of a mother and a father and children. But today, we have a family conference going on that will not define a family.

It is easy for me to define. I had a mother, a father, and some sisters, I have a wife and I have children. That is a family. But today we will argue about whether homosexual partners are a family. And a family was composed on families that will not define one.

What is it that we have come to in this country when we cannot define a family?

I see a whole series of developments undermining the most important unit of Government in this society, and that is a family, from abortion to pornography, homosexual rights, to what we see on TV, the permissiveness.

Yes, I am old fashioned, I am traditional, and I am proud of it.

This is another part of the degrada-
Sometimes I wish I was born and lived in the century I am often accused of living in my votes on the Senate floor, when mothers were mothers and fathers were fathers, and children had respect for the family when they were together, and not dragged from the home. I will not continue to take any more time.

If anybody has any doubts, and I hope they will not, I hope they have gathered from my statement that I am opposed to this amendment.

Mr. GOLDWATER. Will the Senator yield to me?

Mr. GARN. I do not have the right to. Mr. GOLDWATER. So that I might use a little more time.

Mr. GARN. I am happy to yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I want to agree with everything the Senator from Utah has said, particularly about the family. But probably more particularly about the way our potential enemy is outproducing us, outgunning us, making it almost impossible for combinations of men and women to even think of having any chance.

Do we realize that last year the Soviets gave away—gave away—more aircraft than what is going to be purchased for the year for our Armed Forces? And we will buy less than 400.

We have that many run into mountains, dive in the ocean, and so forth, that we will have to repeal that prevents the automatic open sesame to combat. We want to agree with everything the Senator from Kansas says. We want to agree with everything the Senator from Arizona, whose wisdom I admire greatly and respect.

Mrs. KASSEBAUM. Mr. President, I should like to reply to my good friend the Senator from Arizona as a vote for sending a body to combat. That is all I have to say.
to strengthen family life. I do not wish to see my sons go, any more than I wish to see my daughter go.

What we are talking about today is not a question of such as a question of what would be the best way to draft registration legislation. I believe it is to show a national determination. It should require that both young men and young women register. It should be universal. It should extend to ages 18 to 26, at least. It should be something we regard as a civic duty and part of the political process of this country.

Under that type of registration, I think it does serve a useful function, because it is an important part of an educational process to stop and think about what our commitment is to our Nation and the principles it embodies.

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

Mrs. KASSEBAUM. I yield.

Mr. WARNER. Throughout my career and lifetime, particularly when I was in the Department of Defense, for many years, I fought hard to try to open job opportunities in the armed services to women. We made great progress from 1969 through 1974. As a matter of fact, in that period of time, more job opportunities were open for women than at any other time in the history of the U.S. Navy, including the first experiment to run a ship almost entirely crewed by capable women.

I continue to fight steadfastly to improve the job opportunities for women in the armed services of the United States. They have fulfilled their missions extremely well throughout our history.

However, what troubles me is that we are now turning the corner and involuntarily—through this proposed registration law and potentially a draft—involuntarily taking a woman into a system which now has built-in inequities and discrimination and making her survive against her wishes in that system.

Mrs. KASSEBAUM. In response to the question, Mr. President, I hope the Senator from Virginia that we are not talking about the draft. I do not regard this as a first step toward the draft. What we are talking about, as I said earlier, is what will be the best registration policy.

Mr. WARNER. Do I correctly understand the Senator to say that if it became necessary, she would support a draft before the Senate. But is the Senator suggesting that we have one law with regard to men and women for registration, as I am, if we were compelled to go to a draft law, it would not have a comparable equity?

Mrs. KASSEBAUM. I am suggesting that at the time we are required to discuss and vote on that legislation, we would shape it to the needs of the country and the armed services at that time.

Mr. WARNER. How would the provisions with respect to men and women differ between a registration and a possible draft? I think we are establishing very important legislative history, if the amendment of the distinguished Senator is accepted, a history that says that the first step in a military career is that both men and women should be treated equally.

Mrs. KASSEBAUM. The point I am making—and it has been said many times today—is that wisdom and goodness judgment: that while the needs are and how we meet those needs. In fact, it has been determined by the armed services that most of the needs for the areas that women fill now would be met voluntarily. So we only are going to draft either men or women to where there is that need.

Mr. WARNER. Then, why go to the expense and the inconvenience and the deprivation of privacy of women by compelling registration now, unless we know there is a need, and when there is not one?

Mrs. KASSEBAUM. We are talking about what is the best for registration. I believe it enhances compliance if both men and women feel this is an obligation.

It adds strength to what we are trying to do both nationally to determine to show resolve, to show what we would be willing to do if we were faced with a crisis in our country and the need to turn to conscription.

So we are not even trying, nor should we be trying, to figure out how we would address conscription. That is my point. I feel that today the issue at hand is what gives us the best registration.

Mr. RANDOLPH. Mr. President, I ask the Senator from Kansas to yield.

THE PRESIDENT. The Senator from Kansas yield the floor?

Mrs. KASSEBAUM. I am not going to yield on my time. I will be happy to let the Senate speak on his time.

Mr. RANDOLPH. I wish for her to remain ready to counsel with me in a colloquy. That is what I desire to do, on my time, of course.

The PRESIDENT OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I ask the Senator from Kansas (Mrs. KASSEBAUM) that I shall support her amendment in which she is joined by the able Senator from Michigan (Mr. LEVIN) on the rollcall that will be coming sooner than later, but whenever it comes, I will support it.

I have taken the position that she espouses for many years. My decision is not shaped quickly. My position on this issue is known in West Virginia through addresses before many groups and through the media. I feel that it is very, very important that the womanpower as well as the manpower of this country be assured.

I believe that this fact is important. We are not deciding about a draft vote. We are discussing a registration of the womanpower of this country. There is a basic question embodied in the amendment.

It takes courage for the Senator from Kansas to speak as she has in reference to these matters, not that we do not respect the conscience of every Member in this Chamber but we must not forget that she is the only lady in the Chamber of 100 Members. Yet she is asking us to do something that is reasonable and just. I hope some of us may have second thoughts and hopefully support her amendment as I will support it. In so saying I do hope that my colleagues feel that this is a problem which should not cause divisiveness between men and women. Women are full partners with men. In future years more, not less, women will serve in the Senate.

When we face the problem of possible use of the womanpower and manpower in a conflict which endangers our security, the Senator from Kansas says the matter of the draft will be before us. That is a separate matter. Is that not correct?

Mrs. KASSEBAUM. Absolutely. Mr. RANDOLPH. Absolutely. It is a separate matter.

Sometimes we are inclined during this debate to think that there is no reason for us to be concerned with registration, frankly, of either men or women.

I am not critical of my colleagues, when I make this observation. On the 22nd of August 1941, I was one of the Members of the House of Representatives who at that time had a difficult decision to make. I recall when the vote was tense that evening. The vote was 203 to 202 for the extension of the draft. I remember certain speeches. I am not looking back and thinking harsh of those who said in essence that anyone who would vote for the draft was a warmonger. It was said, also, that no nation would think of going to war, against us, of attacking the United States of America; we had absolutely nothing to fear. The lady from Kansas will remember from a reading of history that rollcall came on August 12. Nothing would happen, they said. Yet on December 7 we were struck by air and sea at Pearl Harbor.

I am not attempting to wave a flag in any sense, but there is the realism of the situation. We live in a world of instant news. I hope the bill will be carefully considered by the membership as we vote, not for a draft but a vote addressing itself to the womanpower and the manpower of this country and the conflict would involve the United States. I pray every day and I do with my cherished friend from Oregon, MARK HATFIELD, that war will never come. But I do know that in August 1941 debates in the House, said no nation was interested in attacking us. We were attacked just a few months later.

I am a worker for understanding and peace. In 1943 I introduced a bill to create a Department of Peace. With Senators HATFIELD and MATSUMAGA, and other Members I now sponsor an Academy of Peace.

It is my deep down feeling from a reading of the history, indeed somewhat of a student of that crucial period, that I say to my friend from Virginia, Senator WARNER, that the vote of that 203-
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possible calamity like the war could take place. My colleagues, they felt that that was the time to act. I have documentation for this belief.

I appreciate the lady from Kansas yielding to me. Perhaps it is not important for me to state how I shall vote. I shall vote as I feel clear realization of my responsibility, knowing that in West Virginia there will be constituents who will oppose my vote. I hope there are citizens in our hills who will support my action. They are in convictions and conscience. Womanpower and manpower registration is in no wise a draft. Does the Senator agree?

Mrs. KASSEBAUM. I certainly do, and I am very appreciative of the very thoughtful remarks on this issue of my colleague from West Virginia. He makes a strong case.

Mr. RANDOLPH. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Nebraska and the distinguished Senator from Michigan. The intent of this amendment is to require that any registration plan that is a registration plan, include women as well as men.

I have attempted during the course of this afternoon to listen to the various arguments which have been very, very eloquently presented by both sides on this momentous and, as my friend from Wyoming, Senator Simpson, has called it, searing issue that is before this country. I think that the distinguished Senator from Kansas, as the main proponent of this amendment, has offered extremely relevant and very articulate statements in support of it.

I could not help but be impressed and inspired by the most recent remarks offered by our friend from West Virginia, the distinguished Senator Ransdorl, who, if my memory serves me correctly, I believe was the first member of the present Senate who was a voting Member of Congress in August of 1941 when the Selective Service System was inaugurated. During that time we had the Senators from the State of Washington, Senator Magnuson and Senator Jackson.

I think that his statement today in support of this amendment is a statement of great wisdom and of great courage. It is a statement from a man who not only senses history but has been a part of making history for this country.

Mr. President, also he has discussed womanpower and manpower. It is very important to touch upon this for a moment. This is what I think is the debate is about, not whether women will be included in a draft.

I look at this debate and this issue as stopping far short of the decision as to whether we are going to start drafting women or send them into combat.

What this debate is about today is identifying that power, finding that womanpower, finding that manpower—locating that source and knowing where it is in case we need it.

I support this amendment today for two reasons. I believe that it is going to serve a good purpose, and I do believe that it will have a harmful effect. Let me explain both of these points briefly.

First, I believe that this amendment is designed to recognize the very significant role that women play in our society in general and the military in particular. Our approach to questions of civil rights has changed significantly in the past 30 years. We now acknowledge that a number of groups once excluded from the mainstream of the social and economic system do have and must have an equal role in building a just and a secure society. Women have certainly demonstrated that fact beyond dispute. In the military they now constitute approximately 6 percent of our active personnel. The first women to graduate from our service academies distinguished themselves in their academic studies and will certainly distinguish themselves in the ability to apply that knowledge and in abilities in real world situations.

It seems to me a question of basic equity to say that women entitled to the benefits of full citizenship in this Nation should have the same responsibilities of that citizenship. Including them in a registration system makes it very clear that women are considered full members of our society.

I think that statement is one that needs to be made and one that ought to be made. In the act of affirming our commitment to full participation of women in the duties and obligations of citizenship, I think we made an important statement and an important claim for the inclusive nature of democracy.

But, Mr. President, I do not think many Members really disagree with the powerful pull of the equity argument. I believe that their feeling is that the good this amendment does is outweighed by negative effects which they might associate with it. Let me identify some of these apprehensions and hopefully in a few moments try to dispel them.

First, some people fear that this amendment will give women the right to serve in combat. This is not true. This amendment provides that women will register—not that they will be drafted, and not that if they serve, they will serve in combat. I have spoken to the authors of the amendment and that is clearly their intention and clearly the way the legislative record of this amendment ought to be read.

Second, some people fear that this amendment will unjustifiably impede our ability to mobilize. They reason that a fair interpretation of the law may require us, should we need to mobilize, to take in men and women in equal numbers. And because women cannot serve under current law and regulations in combat, they fear that training centers will be filled with people who will not be available to meet our combat needs. I understand that fear—but, again, it is simply not an accurate reading of either this amendment or the legislation which has been before us and this resolution does not address the question of the draft—it is a separate issue.

The power to register does not confer the power to draft. We must make the point clear. We will not have that power until and unless the President of the United States comes to the Congress and asks us to revive the underlying military services law. And if that time ever comes—and we hope it does not—and particularly if it comes before the Congress has had an opportunity to study the selective service law. And if that time ever comes—and we hope it does not—and particularly if it comes before the Congress has had an opportunity to study the selective service law, it is in case we need it.

I agree to my friend from Virginia for a question.

Mr. WARNER. I concur with the Senator in that. But we should only put the American taxpayers to the expense, an added expense, of registering women if there is some foreseeable need for that information. Yet I continually hear when we approach the separate issue of the draft we can suddenly begin to abandon the equity argument and just draft in the male population. The case indicates needs for the services.

Mr. PRYOR. The answer to my friend from Virginia's question is that those determinations will be worked out in the Congress and in the other body in cooperation with the Chief Executive of this country. If and when we have to revive the full-scale draft, and only, I assume, in case of an emergency.

Mr. WARNER. In that event would the Senator's position again be just as vehement on the question of equity in the draft?

Mr. PRYOR. The Senator from Arkansas, if he is a Member of this very illustrious body at that time, is going to look at the facts as they are presented at that particular moment which might include: First, are we under attack; second, are we under imminent siege or invasion; and third, what is our military posture as it relates to world affairs at that time? I do not answer those questions at this time.

I can say this: If we reach that critical point in our history, the Senator from Arkansas, and, I only can assume, the Senator from Virginia will be very glad that this country at least has compiled...
the names of those people who might be eligible to serve in one capacity or another.

Mr. WARNER. Well, we know statistically that somewhat slightly under 2 million men and women become 18 each year. Our current needs of the services are several hundred thousand persons. Considering the need to have the registration law be to induce the young people to volunteer for the All-Volunteer Force. But I am still unconvinced that we must go to the added expense to the Armed Forces of registering and to have to have their privacy invaded by disclosing where they are when there is no apparent or foreseeable need that those numbers would be required by our military. As a matter of fact, all historical data point in the opposite direction.

Yet the argument of equity—and I have made notes here—you want women to be considered as full members of our society. If that is the case when it comes time for the draft, it would seem to me that the Senator would be compelled to say: You are full members of society and now you are going to have to be drafted in equal numbers.

Mr. PRYOR. I think the Senator knows, and I hope I made my point clear, that the Senator from Arkansas does not have to re-consider the registration or the All-Volunteer Force. We support a peacetime registration in order that we can at least be prepared in case of an emergency. If we have registration, that system of registration, should, be fair, and if it goes far enough to achieve equity, it should give the female portion of our population an opportunity to serve in the armed services of this country by affording them the right, and certainly the responsibility, of registering.

I would like to conclude, Mr. President, by saying that a point I wish to stress to you, Mr. President, and to any of those who oppose this amendment perceive a harmful consequence flowing not from act of registration but rather from the act of conscription.

However, we are not considering the issue of conscription today. I reject that premise, and I hope I have made my point clear.

I should state at the outset of my remarks that I do not support it because I am in favor of registration, peacetime registration, or I would include it, of course, that the major bill that we have before us today, the registration joint resolution, is simply a thinly disguised effort to kill the All-Volunteer Force, and if it is enacted as the final result, it gives us a chance to hide the failures of providing adequate pay for the military, the failure to provide adequate funds for the national defense, the failure to provide the requisite incentives for retention, if not recruitment. All of it adds up to first step and a concentrated effort to do away with the All-Volunteer Force.

But if we do that and if, indeed, we do have registration, in today's society, Mr. President, I certainly think that a bad system is then made totally illogical. If you exclude women from registration, nothing that we can do, in my estimation, is going to make the idea of registration sensible or palatable. If we are to retain any sense of logic, any sense of equality, of morality, then it must apply to both men and women.

I have listened to a great deal of the debate here this afternoon, both in the Armed Services Committee. I have not heard any argument for the exclusion of women in registration that makes sense in 1980. I have heard discussions of the history of the military for the past 200 years. I have heard statements about the history of our country and the fact that we have not had women in previous drafts or registrations. It would also point out, however, that we have never had such a baseless justification for taking the first step to peacetime conscription as we see on the floor of the Senate here today.

We talk about a society which has vastly changed. During much of the time when there was no talk of registration or even a draft of women, women were not allowed, in most States, to own property, to go to court, to drive a car, to marry, to serve on juries, to own property, to afford lawyers, but not available to any- one else. But here, Mr. President, in the joint resolution before us, we find ourselves creating as large a loophole as conceivable, that is, a loophole that specifically excludes half of our population.

And in fact, if you go down through the list, in virtually every instance the laws, rights and responsibilities are the same. Now, having provided the same laws, rights and responsibilities for both men and women, should we leave a glaring exception in registration? I cannot help but think, Mr. President, that many in the Senate who support the idea of registration with the idea that it would be the first step in the return to a draft and peacetime conscription would be horrified at the idea that the basic inequality of the whole thing may be held up to public scrutiny.

As I said earlier, Mr. President, prior to the cloture vote, our problem today is not whether the fair and equitable peacetime registration is ready. Our other problem today is readiness. And we do not get these through pre-registration. We get these by making a military life one that appeals to people because of their patriotism, but also allows them to retain their own dignity: One that says that if you are a technician on a ship, required to utilize millions of dollars of radar equipment and responsible perhaps for the lives of hundreds of others, that we are not going to reward you in that position with a salary that has you placing a distant second to those on welfare. And we do not get these through pre-registration.

We talk about a society which has made it clear to both men and women, it is bad enough to drive an M-60 tank through; loopholes that specifies that if you are rich and well-connected enough to continue on in college as a student, you might escape the rigors of the draft; loopholes of the type Senator Proxmire discussed this morning available to those who could afford lawyers, but not available to anyone else. But here, Mr. President, in the joint resolution before us, we find ourselves creating as large a loophole as conceivable, that is, a loophole that specifically excludes half of our population.

Mr. President, I do not like registra-
tion. I do not like the idea of the peace-time draft or peacetime conscription. But if we are going to have it in today's society, Mr. President, in today's age, at a time when our legal rights and responsibilities are based on the equality of sexes, then we cannot have it without equality of the sexes.

I would hope that the Senate would reject the whole joint resolution, but if it does not, I would hope that it would make a joint resolution of its own. It is not now. It would come closer with the amendment of the distinguished Senator from Kansas and the distinguished Senator from Michigan.

I should make it very clear, Mr. President, if we have a time of emergency where our military must be substantially improved by registration or by a draft, I will support them. I would support it eagerly. But that is not the case. The only ready force we have today is our All-Volunteer Force. The 100 hours of time being spent by this body could be far better spent in debating and passing legislation to improve the condition of our current force, our All-Volunteer Force. It would be far better spent in giving the money and the support necessary for the All-Volunteer Force work and not taking a backdoor road to kill it.

Mr. President, having said that, I will rely on just one more time if we are going to have registration, let us make it equal.

Mr. President, I reserve the remainder of my time.

Mrs. Kassebaum, addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. Kassebaum. Mr. President, if there are no other Senators wishing to speak, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. Nunn addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Kansas yield the floor?

Mrs. Kassebaum. I am glad to yield the floor.

Mr. Nunn addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. Nunn. Mr. President, let me say a few things about the Kassebaum amendment. I think a great number of people are probably not clear as to exactly what this amendment does and does not do. The joint resolution we are amending is very simple. There is a proviso that reads as follows in the original joint resolution and the amendment by the chairman as amended by the Nunn amendment:

Provided, That none of the funds made available by this joint resolution shall be available for instituting, taking action to draft any individual for military service or be used for production of any selective service form used for classification which does not provide that there shall have the option of stating that such registrant is conscientiously opposed to participation in war in any form pursuant to section 6(1) of the Military Selective Service Act.

That is the way the amendment reads now.

The Kassebaum-Levin amendment would add after the word "Act" the following language:

or shall be made available for implementing the system of registration which does not include women.

Mr. President, there are many people who believe that this amendment authorizes the registration of women. This amendment does not authorize the registration of women, not thinking they are disrupting the whole process, and, therefore, voting for the Kassebaum-Levin amendment.

Mr. President, every Senator and all the staff members, and others listening to this debate, should recognize that this takes away the existing authority of the President to respond to emergencies because he could not—could not utilize his existing authority if this becomes law until such time as the Congress has authorized the registration of women.

I urge my colleagues not to vote for this amendment. I urge my colleagues to vote down this amendment at the present time.

The Senator from Kansas and the Senator from Michigan can bring up the authorization of women on the military authorization bill which will be here within 2 or 3 weeks on the floor. At that time we can provide any provision that anyone wants about this. That bill will be in conference with the House Armed Services Committee, the appropriate body to consider that. I think we can have a meaningful debate on the subject, and it should be debated.

Our committee went into very great detail. We found that there was no military necessity cited by any witnesses for the registration of females.

The main point that those who favored the registration of females made was that they were in favor of this because of the equality issue, which is, of course, a legitimate view. But so far as military necessity, and that is what we are primarily, I hope, considering in the overall registration bill, there is no military necessity for it.

Our committee made several findings.

I understand my friend and colleague from Virginia has put the committee and subcommittee report into the Record, is that correct?

Mr. WARNER. The Senator is correct. Mr. Nunn. We made several findings based on that testimony. I refer anyone to the Record on that.

Mr. President, I would like very briefly to read the specific findings:

Specific Findings

(1) Article I, section 8 of the Constitution commits exclusively to the Congress the power to raise and maintain a Navy, and makes rules for government and regulation of the land and naval forces, and purports to these powers it lies within the discretion of the Congress to determine the occasions for expansion of our armed forces, and the figures best suited to such expansion; should it prove necessary.

(2) An ability to mobilize rapidly is essential to the preservation of our national security.

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have the fathers, not receiving draft notices, under a lottery system, which is what we would have to go to under present law, and, therefore, we would be in a position of having fathers staying home, in many cases hundreds, perhaps even thousands of small families at home, while mothers are shipped off for military service under a draft.

I just do not believe my colleagues in the Senate, after thinking about that, are prepared to take that kind of bite out of one big hunk today. I do not believe they are prepared to do that. But, unfortunately, at the present time, we do not have very many people on the floor. I force there are people listening to this debate. I think people ought to recognize what this amendment really does.

This amendment precludes registration of males even in a wartime situation unless and until the Congress authorizes the registration of females.

So we would be in a very bad position if we would have an emergency come and we would have to register males, even if Congress gave him the authority overnight, unless we also gave him the right in that kind of emergency, to register females, then he would have no authorization to go forward with registration of males.

Imagine the situation where we have some emergency, some possible mobilization, and the President saying, "I need an emergency and I need for the registration of males." The President saying, "The present law precludes me from registering males unless you authorize females, so I also need an authorization to register female males." And the President saying, "The present law says that I have to draft impartially, therefore, unless you change that law, I have to draft females and males equally," and then the draft, in any event, going out.

We are in an emergency, and all over this country having young mothers get draft notices, and perhaps their own husbands not getting draft notices under a lottery.

I do not believe this has been thought through. Mr. President, in this amendment. I know the authors are very sincere and that they feel deeply about the issue. I respect their views on this.

But if we pass this in this form on this night, there are going to be a lot of people, when they find what this really does and what the consequences are, that will finally decide that what they thought was support by their constituents and the American people will suddenly unwind, because there are a great number of people who have not thought it through or the consequences of this issue.

They have not recognized that the present law requires impartiality in any draft, and that means we draft from the pool that exists, and when we put women in the pool with their constituents and the American people will suddenly unwind, because there are a great number of people who have not thought it through or the consequences of this issue.

I think the Senate is getting far ahead of itself. It would have been much better if we had brought this up on an authorization bill, and my colleagues should recognize that when they vote in favor of it. When they pick up an analysis in 2 or 3 days, in a magazine, written by one of the thoughtful members of the news media, and they give it more than superficial treatment, and then bring this to the Senate, thinking about the possible consequences, my colleagues are going to find that what they voted for and what they got are not recognizable, because it is entirely different, in terms of the consequences, from what people may think.

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

Mr. NUNN. I will be glad to yield for a question.

Will the Senator ask it on his time?

Mr. RANDOLPH. Yes, on my time.

Mr. NUNN. I yield the floor, and I will let the Senator be recognized on his time.

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

Mr. RANDOLPH. Mr. President, I say to the very informed Senator who has been speaking—I use these words advisedly—the very knowledgeable Senator who has been speaking, that I would not want him to imply that those who voted for the Kaselbaum amendment do so and are not informed.

The news commentator referred to, may be very thoughtful, but I am very thoughtful, too, as I cast this vote. I support the Kaselbaum and Levin amendment.

Do not misunderstand me. I am not at all critical. When I vote for the amendment, I will know what I am voting for.

I ask the Senator from Kansas and the cosponsor of the amendment, the Senator from Michigan (Mr. Levin) if they will give me the opportunity to support their amendment.

Mrs. KASSEBAUM. Mr. President, I will be more than happy to do so. I ask unanimous consent that the name of the Senator from West Virginia (Mr. Randolph) be added as a cosponsor of the amendment.

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

Mr. RANDOLPH. I thank the Senator. Mr. WARNER. Mr. President, I come to the floor of the Senate for very clearly describing the legal effect
of the amendment of the Senator from Kansas.

I hope the Senator from Kansas will take this opportunity to respond to the Senator from Georgia and his interpretation of the legal effect.

We are about to vote; and as I sit here, I have been dealing with my colleague from Georgia. He has clearly explained what is my understanding of the operative effect of the amendment, and I am not certain that a number of my colleagues understand this technical point fully.

I yield at this point to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will be happy to do so. I thought we had explained clearly exactly what would take place under this amendment.

I see to my distinguished colleague from Georgia, who has a keen knowledge of the defense needs of this country, that we would have to address this issue on the authorizing legislation which can be brought up at any time. But the point is that we are addressing a policy issue today which certainly has an effect on the authorizing legislation.

Regarding the particular amendment and the question of registering females. This means that if this amendment is adopted, you cannot register both males and females. But this appropriation measure provides only for the registration of males; and it was assumed, of course, since the authorizing legislation is only for men, that it would be 4 million men but that obviously need not be the case.

Mr. NUNN. The President requested $20 million. The Appropriations Committee has cut that down to $13 million, which is what we have before us now. The reason he requested $20 million is because he felt it would take $20 million to register males and females. So the Appropriations Committee has cut that down to $13 million. He was making a sort of trick to the President. We are going to tell him, "We are not going to give you the money to do what you set out to do, but we are going to tell you to do it anyway, but we are not going to give you the authority to do it. You just cannot register males until you register females, but we are not going to give you money to do it.

If this passes, then others of my colleagues are going to have to figure out where we stand because the Senator from Georgia has said it does not matter. Mr. LEVIN. Mr. President, first of all, I wish to comment on some of the remarks of our colleague from West Virginia, Senator RANDOLPH, who is living history in this Chamber. His comments on both the history back in the early 1940's and his comments on the importance of including women if we are going to have registration so we can make use of womenpower, proven womenpower as well as manpower, I think struck the mark head on.

Just as Senator KASSEBAUM welcomed his perspective, I also am very much flattered by the fact that he sees fit to cosponsor this amendment. It means a great deal to the supporters of this amendment and to its future.

Relative to some of the points that have been made by the Senator from Georgia, in the first place the Senator has indicated that if this amendment is adopted the President is going to have to come back to this with both males and females if he is going to register males, and I would say that is exactly the point of the amendment. I do not think that the purpose that he has described or the effect he has described is any different than what was intended. It is intended that the President register both if he is going to register males. I think that intent has been carried out.

The Senator from Georgia then points out the ultimate event of a real emergency and if we have not corrected some of the problems in terms of equal numbers, in terms of impartiality and that is what was stated in the original legislation.

Mr. President, if this amendment were adopted, it would be the best way to address 4 million individuals, both men and women, because that is what was stated in the original legislation.

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women are not forced into combat and you cannot have perfect equity? The answer to that is yes, you want as perfect equity as possible. Even though our current mores prohibit and understandably do women from serving in combat that is no reason why we should not utilize their services.

I think Senator Kassebaum's amendment is an extraordinarily important step both toward strengthening our military service and in the march for equity for women in this country.

Mr. CULVER. Vote! The PRESIDING OFFICER. The question is on agreeing to the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I intend to speak briefly on another occasion. Now I simply wish to indicate my support for the Kassebaum amendment.

I believe that about 8 percent of our Armed Forces today are women. That comes to 1 percent in the Reserve and 1.38 percent in the National Guard. The goal of the Department is to add 12 percent by 1984.

We are not talking about instituting a draft now. We are simply talking about registration to be prepared. If we are in an emergency I should think we should call upon all the resources this country has to offer. Obviously women compose half of our national human resources.

I can well remember when we debated the issue whether or not women could serve on the floor of the Senate as pages, and the question of their competence. I was then, as now, not convinced that women were equally competent as men and sometimes even superior in some respects.

I do believe we are sending a signal. We ought to send a signal that in case of emergency all the human resources this country has to offer. Obviously women compose half of our national human resources. I can well remember when we debated the issue whether or not women could serve on the floor of the Senate as pages, and the question of their competence.

We have preached all over the world that other countries rule out half their personpower if in their economic structure, their political structure, and their social structure they do not fully utilize all of their population in building their nation. In time of peril we are going to call upon all of our resources, and women demonstrated this in 1970 when they served with them in the Navy years ago their competence in leading and defending the Nation in a time of need.

I respect very much the amendment and I believe in it. Mr. Hatfield. Mr. President, I wish to speak to the issue of the constitutionality of the Military Selective Service Act which, after all, is equal or unequal. It is my firm belief that the courts have a responsibility and quite possibly, will invalidate a male-only draft registration as an unconstitutional sex-based classification. It will violate the 5th and 14th amendment to the Constitution.

Preliminarily, I emphasize that it is current fifth amendment doctrine that establishes the constitutional infirmity of a males only draft registration requirement. The belief that women will be protected from registration or induction until the equal rights amendment is ratified is based on misconception of the current state of the law.

The elimination of women from prior draft registration requirements was settled question. Where it was challenged on constitutional grounds, it was upheld with little analysis. However, today, as a result of Supreme Court decision in the end of the last draft, the outcome of a constitutional analysis of a draft registration limited to men will differ.

First, in 1976, the Supreme Court established a heightened review standard for sex-based classifications against which such a statute would be measured. Second, the influx of women into the military during the 1970's has provided substantial evidence that women are capable of high quality performance in most, if not all, military skills. This evidence strongly suggests that a males-only draft registration requirement is no longer capable of meeting the heightened review standard.

During the late 1960's and early 1970's, the courts that upheld compulsory military service for men alone applied what is called the "militarism" model for equal protection review. That is, if the classification is rationally related to a legitimate governmental objective, it will survive judicial scrutiny. This model contrasts with that employed for classifications which either infringe on fundamental rights or are denominated suspect. Such classifications must be based upon a substantial basis model and be necessary to their accomplishment. Historically, gender classifications were analyzed under the rational basis model and were virtually insured of passing constitutional muster.

The turning point came in 1976. That year in Craig against Boren, the Supreme Court articulated for the first time a heightened review for sex-based classifications. It established that such classifications will fail unless the legislative objective is important and the classification is closely and substantially related to the achievement of that objective. Since Craig, the Court has repeatedly reaffirmed that gender-based legislative classifications must be tested by this new, stringent standard and has held many such classifications unconstitutional.

Significantly, the cases cited by a Department of Justice memorandum in support of its position that the Supreme Court would apply the equal protection guarantee to military matters with special circumstances were decided in 1971 and 1975, before the enunciation of this new, heightened review standard. And, although there is judicial support for the proposition that involuntary conscription may be necessary to satisfy a vital governmental objective in maintaining the national security, it does not follow that the imposition of this obligation on men alone is "close and substantially related to the accomplishment of that objective.

It bears emphasis that the heated debate over whether women should be assigned to combat units is not central to determining whether a males-only draft registration furthers the objective of compulsory military service in a combat-ready military. Congress has already recognized this in an analogous context. In 1975, it enacted legislation providing women for the first time admission to the military academies in spite of the Pentagon's principal objection that the academy issue and the combat question were inseparable. It repeatedly heard testimony from military officials to the effect that:

The issue of whether women should become cadets at West Point is tied directly to the basic question of whether Americans are prepared to commit their daughters to combat.

It nonetheless resoundingly passed the amendment to permit women's entrance into the military, for it is clear that the last draft was a capital issue. This year we graduated the first classes of women from our military academies. These women were among the highest ranked of the graduating class in their respective institutions. At least two thirds of the troops served in combat positions is so small that whether or not women were assigned to combat units is largely irrelevant to determining whether or not they should be excluded from a draft. In the last draft, less than 1 percent of those eligible were inducted for military service as combat unit. If women were added to the pool, the statistic would have added to the pool, the statistical chance of an individual being drafted and assigned to a combat unit—whether or not there was a female combat exclusion—would be negligible.

See United States v. Reiser, 394 F. Supp. 1060, 1067 n. 11 (D. Mont. 1975). Even in the basic Army infantry division nearly 60 percent are women. The basic Army infantry division nearly 60 percent are women. The cause of the combat exclusion would be negligible.

For everyone on the front line, there are large numbers of administrative clerical, technical, logistic...
tactical, medical, and maintenance personnel performing support functions.

Even applying the military's own broader exclusionary classifications, many positions are “sex-interchangeable,” The Army estimates 286,000 out of 567,000 jobs can be filled by either sex. The study found that:

Another, a May 1978 test, reveals that in the 1976, the Navy's experimental assignment of females to the U.S.S. Sanctuary revealed that women perform at “every shipboard function with equal ease, expertise, and dedication as men do.” Indeed, in 1976, based on the Sanctuary experiment and impressive additional documentation, the statutory prohibition against women serving on board naval ships was held unconstitutional under the Equal Protection component of the fifth amendment.

In the face of the above experience and data, the conclusion of the Department of Defense was: “Women are demonstrating that they are capable of playing an even larger part in the nation's defense” was unavoidable. Although the outer parameters of women's participation may be unclear, their ability to perform a substantial role in the military has been well documented and widely recognized in this decade.

Once the combat issue is put in proper perspective, women's recognized ability to perform military functions is assessed, it becomes apparent that an exclusion of women from a draft registration requirement would be the product of an assumption that women must remain “as the center of home and family.” One court apparently recognized as much about the Congress which enacted the prior draft law.

In upholding that law's exclusion of women, the court stated:

In providing for involuntary service for men and voluntary service for women, Congress chose to recognize that a nation's survival, as a first line of defense while women keep the home fires burning.

At one time judicially accepted, such romantically paternalistic underpinnings of sex-based classifications are intolerable under current equal protection doctrine. Overbroad generalizations concerning one gender as incapable of performing the first line of defense while women keep the home fires burning.

At one time judicially accepted, such romantically paternalistic underpinnings of sex-based classifications are intolerable under current equal protection doctrine. Overbroad generalizations concerning one gender as incapable of performing the first line of defense while women keep the home fires burning.

In sum, when the evidence of women's participation in the military since the 1950's and the last of the new heightened review standard for sex-based classifications, it is clear that their exclusion from a draft registration requirement will not adequately “closely and substantially” maintain the national security. Consequently, should Congress reinstate a compulsory draft registration requirement using women as an individual's capacity to discharge military duty, there can be no doubt that litigation would be brought and that the legislation would almost certainly be invalidated as violative of the equal protection component of the fifth amendment.

I urge the adoption of Senator Latham's amendment.

Mr. President, I ask unanimous consent that an article from the Washington Star entitled “Army Can Triple Use of Women in Support Roles, New Study Says” be printed in the Record.

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

ARMY CAN TRIPLE USE OF WOMEN IN SUPPORT ROLES, NEW STUDY SAYS

(By Robert Kaylor)

A year-long study indicates the Army can more than triple the number of women who support combat units and not lose effectiveness maintenance of units were done yesterday.

The conclusion is contained in a soon-to-be-released report on the results of Project Fatigue and Stress over a Long Period of using women—numbering between 5 and 35 percent of total strength—in five different types of support units during three-day field exercises.

Sources said the study showed that with 5 percent of total strength made up of women the units were able to fulfill their missions.

In addition to military police and transport units, the women were used in signal, medical and maintenance outfits. There were a total of 55 tests of units of company size—about 150 to 200 total members.

The normal number of women in such support units now does not go above 11 percent.

Sources said, however, that before drawing conclusions whether of women can be boosted so sharply on a regular basis, the Army is waiting the results of other studies.

Among them is one which compared the performance of women against men in similar jobs during a two-week field exercise in West Germany last fall to see whether women could be boosted so sharply in the Army.

The Army is now considering changing its definition of “combat” to allow women to be assigned to divisional headquarters or to behind-the-lines jobs in artillery units. Some sources predicted female soldiers would go into such jobs within the next year.

Mr. HATFIELD. Mr. President, I do strongly support this amendment by the Senator from Kansas, even though I really have a certain sense of ambivalence because I really think that this matter will be taken to the court eventually before it ever becomes implemented, the whole question in which we are involved here today; and therefore it seems to me that if this amendment is voted down we have another issue upon which we can challenge the constitutionality of this act if it becomes the law or becomes a policy, and probably that would add to our possibility of winning it in the court as opposed to our ability
to win it in the Senate or in Congress. But in spite of this sense of ambivalence on the legal question and the possibility of raising this in a court action later on I do want to indicate to the Senator from Kansas that I shall vote for this and urge it be passed by the Senate tonight.

Mrs. KASSEBAUM. Mr. President, I have called for the yeas and nays.

I am very appreciative of those who have given us the opportunity to have this debate and I hope those who support me in giving me this debate as well as Senator Levin on this amendment will also support me.

I do call now for the yeas and nays.

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

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. JEFFES. Mr. President, I rise in opposition to this amendment.

All of the military services testified at length about the mobilization plans before the Armed Services Committee in their hearings about the plans for women in those plans. Both the civilian and military leadership agreed that there is no military need to draft women. Because of the combat restrictions, the need will be primarily for men, and women volunteers would fill the requirements for women. The argument for registration and induction of women, therefore, is not based on military necessity but on considerations of equity.

We are concerned with the national security of this country. The Army and the Marine Corps testified that because of present shortages in combat arms and the nature of the emergency situation envisaged, the primary need is for combat replacements from the induction system. Selective Service plans provide for drafting only men during the first 60 days, and only a small number of women would be included in the total drafted for the first 180 days.

In addition, there are other military reasons that preclude very large numbers of women from serving. Military flexibility requires that a commander be able to move units or ships quickly. Units or ships not located at the front or not previously scheduled for the front nevertheless must be able to move into action if necessary. In peace and war, significant retention of personnel is necessary. We should not divide the military into two groups—one in permanent combat and one in permanent support. Large numbers of forces in the rear position must be available to which combat troops can return for duty before being redeployed. It is also clear that an induction system that provided half men and half women to the training commands in the event of mobilization would be administratively unworkable and militarily disastrous. It has been suggested that all women that are legally eligible but only a handful actually be inducted in an emergency.

Fellow Members of the Senate, you will find this to be a very confused and, ultimately, unsatisfactory situation. I believe we must be honest and face up to a situation we have existing, and that is increasingly worrying the people of this country, and that is the military deficiencies and, among them, our military manpower problem.

We have a readiness problem and a mobilization problem. But our problem is not the lack of accessibility for service for the female or the women population of this country. They have that opportunity now to sign up and, in most cases, serving very well.

But to register, the proposed registration for women, subsequently in the event of mobilization when we consider a draft, is not in the best interests of this Nation. It is contrary to military preparedness. In fact, it works in a negative way on that basis, as testified to by all military and civilian opponents who appeared before the Armed Services Committee.

Therefore, I urge rejection of this amendment. I thank the Chair.

Cries of Vote! Vote!

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I just want to repeat, while we have Senators on the floor, what I said a few moments ago. I am not sure how many Senators recognize what it does and does not do. The amendment requires the registration of males until Congress authorizes the registration of females. This means that the amendment basically prevents registration. It takes away the authority of the President to draft, which he already has under the law, until and unless Congress authorizes the registration of females.

This amendment does not authorize the registration of females. We are in the unusual position of having the President requesting $20 million to register males and females. The Appropriations Committee knocked out $7 million, and now, if this amendment passes, we are saying to the President, 'We are giving you the authority—we are giving you the money to register males but we are telling you not to do it until you register females, but we are not giving you the money to register females or the authority to register females.' So we are really sending about as big a bag of mixed signals to the White House, to the American people, as anything I can think of.

I will leave it to others to explain, if this amendment passes, what the Senate position is because the Senator from Georgia would be confused as to that Senate position because we do not have the money here, we do not have the authority here, and we are simply saying that you cannot register males until you register females. We are not giving the President the authority to register females nor are we giving him the money.

Mr. President, that completes my statement on this amendment. I hope my colleagues will vote against the amendment and we will have, as far as I am concerned, an up or down vote on the amendment.

SEVERAL SENATORS. Vote! Vote!

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

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. McGovern), and the Senator from North Carolina (Mr. Moynihan) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators wishing to vote? The result was announced—yeas 40, nays 51, as follows:

[Roll call Vote No. 132 Leg.]

YEAS—40

Baker
Baucus
Belmont
Bentsen
Brady
Burdick
Cannon
Cooper
Cohen
Creston
Culver
Danforth
Dole
Glenn

Pressler

NAYS—51

Armstrong
Bayh
Boren
Boschwitz
Bumpers
Byrd
Byrd, E., F., Jr.
Byrd, Robert C.
Church
Cochran
DeConcini
Dole
Domenici
Durenberger
Durkin
Evans
Foster
Garn

NOT VOTING—9

Biden
Chafee
Cox
Dole
Foster
Garn

Hollings
Kennedy
McGovern
Long

Mathias
McGovern
Morgan

So Mrs. KASSEBAUM'S amendment (No. 1805) was rejected.

Mr. RANDOLPH. Mr. President, we cannot hear the vote.

The PRESIDING OFFICER. There were 49 yeas and 51 nays. The amendment was rejected.

Mr. BYRD. Mr. President, for the information of the Senate, and so that Senators may inform their families—Mr. President, may we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators and so that they might inform their families, the Senate will be on this joint resolu-
I do not expect this, unless per chance there would be some willingness to enter into a time agreement at some point in the near future. But unless there would be some willingness to enter a time agreement at some point in the near future, I do not want it this way. I prefer that the debate on this amendment will be concluded in a manner consistent with the rules until action is completed on the amendment. I have just stated.

Mr. BAKER. Mr. President, I had no idea that this offer would be accepted, but there has been a conversation on this side of the table about the possibility of recessing tonight at some decent hour and then reconvening tomorrow at a fairly early hour, but attempting to get unanimous consent at that time we agreed in recess would count against the 100 hours provided for in the rules. I believe the Senator from Oregon would agree to that arrangement. He is on the floor and can speak for himself. That might be one way to accommodate the purposes of the majority leader to prosecute the debate on this measure and provide some degree of relief for an individual, every Senator or anyone else that they not agree to extend debate that there would be a limit of 100 hours, that that would be the upper limit.

Now, as I see it, an effort is under way to reduce the rights of individual Members under a postcloture condition to somewhat less than the rule permits. If it is the desire of the Senate to change the postcloture rule, I will enter that debate with anyone else as to what might be done under a postcloture situation. But it does not seem wise to me to indicate that simply because we have now a cloture situation that Members of the Senate, each individual, every 100 Members—or perhaps I should say all the other 99 Members—have to be in the position of either giving up their rights under the rule or paying the price of inconvenience to themselves and rather unusual procedures on the floor of the Senate.

Mr. BAKER. Mr. President, I will not prolong this much longer except to say on the very important point raised by the Senator from Idaho, we had a colloquy earlier today and a ruling from the Chair that notwithstanding any time yielded back by an individual Senator, it would not reduce the 100 hours provided for under rule XXII. The suggestion I made was that a Senator might differ in that from me. The suggestion I made was that it would be my understanding that we meet a fairly reasonable hour and convene again in the morning at a fairly early hour with the Members involved in the debate that might agree that the intervening time between now and in the morning would be charged as if debate had ensued.

Now, really, about all it amounts to is the conservation of energy and the night’s sleep. But I do not see that there has been any great rush to support that proposal. So I assume from the extensive silence I observe on the floor that nobody thinks well of that except me, and I will withdraw the suggestion.

Several Senators addressed the Chair. The PRESIDENT pro Tem. The Senator from Virginia.

Mr. WARNER. Mr. President, a parliamentary inquiry. The PRESIDENT pro Tem. The Senator will state it. The Senator’s inquiry. Is it appropriate to make a motion? The PRESIDENT pro Tem. It depends on the Senator’s motion. The Senator. I move to table the committee amendment, as amended, and ask for the yeas and nays.

The PRESIDENT pro Tem. That motion is in order. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered. The PRESIDENT pro Tem. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be 3 minutes to the side on the tabling motion. The PRESIDENT pro Tem. The Senator’s inquiry. Is there objection? Mr. BAKER. Mr. President, reserving the right to object, I ask the majority leader to yield for a question.

Mr. ROBERT C. BYRD. The majority leader understands, this matter of moving to table committee amendment carries with it certain implications. Of course, we are in a situation in which surprises and on the floor of the Senate the opposition of guard is a fair ball game. But I wonder if, before we vote, say, at 9 o’clock, we can call for the return of the Senators who are now leaving the Senate—to attend to other matters—in some way to get some kind of a gentlemen’s agreement or understanding that when we come back, at least 1 or 2 minutes can be given to either side to give some kind of explanation as to the impact and the implications of this motion. To make the motion and then adjourn, so to speak, and go from the floor and off the Hill and come back and vote immediately on a motion has given no one an opportunity to really understand the full implications of this motion.

I would be happy to take the next hour to explain it on my own time, if anyone were here to listen. The majority on my side of the Senate or this motion will be defeated, and I will be speaking to an empty Chamber. I should like a “gentlemen’s agreement” that we are going to
be back in our seats so that we will understand that prior to the vote on this motion, we will have at least 1 minute or 2 minutes on each side, and we will know what the vote means.

Mr. BAKER. Mr. President, reserving the right to object, I say to my friend from Oregon that the request is being made largely to accommodate—I suppose entirely to accommodate—the convenience of Members on this side. I am making arrangements, together with the majority leader and the assistant Republican leader, to transport people to another engagement and for them to be back here at 9.

I assure the Senator from Oregon that we will do that and will do it efficiently.

His request for a limited amount of time to explain the situation after we return at 9 is entirely in order, and I hope the majority leader will consider modifying his request to accommodate the additional points.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for an additional hour.

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

Mr. ROBERT C. BYRD. Mr. President, on the right side of the aisle, does any Senator on my side of the aisle wish to utilize any of the time between now and 9 o'clock in speaking on the matter?

I see no indication.

Mr. HATFIELD. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HATFIELD. I do not want to delay this procedure, but I say to the majority leader and the minority leader that in 1 minute, at this point, when we have this kind of attendance, I could describe this matter as I see it, so far as protecting my rights is concerned, and to explain to Senators why I oppose this motion. I could do it in 1 minute and get back to the right side of the aisle, just in order to show that we wish to accommodate as much as we possibly can.

Mr. MCCLURE. Mr. President, reserving the right to object, I thank the Senator from Idaho, when he may be concerned about his rights under the postcloture rule, and that is all I am concerned about, whether or not there are 100 Senators of this Senate who have equal rights or whether there is 1 Member and 99 others, 1 Member who has a different right than the other 99.

I am trying to protect the rights of the Senator from Idaho.

I thank the Senator for his offer.

Mr. ROBERT C. BYRD. Mr. President, we are trying to accommodate our friends on the minority side by my request.

If the Senator from Idaho wishes to stay here I will be glad to stay here to protect the rights on this side of the aisle, just in order to show that we wish to accommodate as much as we possibly can.

Mr. HATFIELD. Mr. President, the Senator from Idaho wishes to stay here, I will stay here and listen to anything that has to be said. As I understood the agreement, we are trying to accommodate the people on that side of the aisle.

If the Senator from Idaho wishes to stay here I will be glad to stay here to protect the rights on this side of the aisle, just in order to show that we wish to accommodate as much as we possibly can.

Mr. MCCLURE. Mr. President, reserving the right to object, I thank the Senator from Nebraska for his offer. There will come a time, I say to the Senator from Nebraska, when he may be concerned about his rights under the postcloture rule, and that is all I am concerned about, whether or not there are 100 Senators of this Senate who have equal rights or whether there is 1 Member and 99 others, 1 Member who has a different right than the other 99.

I am trying to protect the rights of the Senator from Idaho.

I thank the Senator for his offer.

Mr. ROBERT C. BYRD. Mr. President, we are trying to accommodate our friends on the minority side by my request.

If the Senator from Idaho wishes to object, that means we have to vote immediately on the motion to table.

There being no objection, the Senate, at 7:40 p.m., recessed until 9 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LAXBY).

The VICE PRESIDENT. The question is on the motion to table, in which 10 minutes has been allotted for debate.

Who yields time? Who yields time?

Time will be charged equally against both sides.

Both sides have 3 minutes remaining.

Mr. HATFIELD addressed the Chair.

The VICE PRESIDENT. The Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the parliamentary situation?
Mr. WARNER. Mr. President, to accommodate the Senate, I will yield back the remainder of my time.

Mr. President. Is all time yielded back?

Mr. WARNER. Mr. President, I yield to the Senator from Minnesota (Mr. BOSchwitz).

Mr. BOSchwitz. Mr. President, may I ask the distinguished Senator from Oregon (Mr. HATFIELD) once again—I was a little bit late and did not hear the Senator from South Dakota (Mr. McGOVERN)?

Mr. President, it is of the utmost importance that I be informed if the Senator from South Dakota (Mr. McGOVERN) desires time for the examination of the amendment. Without an answer I will proceed to use the time available to me.

Mr. HATFIELD. Mr. President, I indicated to the Senate that this calls down all the pending amendments that deal with substantive issues. We will not be able to have consideration of them, even for an appealing of the ruling of the Chair. Therefore it seems to me that it is unfair to do that at this time.

It also calls down the amendment that this Senate voted, that was offered by the Senator from Georgia (Mr. Nunn) on the matter dealing with conscientious objectors. The committee amendment deals with it in a certain way, the Senator from Georgia amended it, and the Senator from South Dakota (Mr. McGOVERN) supported the Senator from Georgia. Now the Senator from Georgia is supporting the idea of calling down the whole thing in order to stop us from calling up other amendments, because they have been worded in conformity to the committee amendment.

The VICE PRESIDENT. Who yields time?

Mr. BAKER addressed the Chair.

The VICE PRESIDENT. The Senator from Tennessee.

Mr. BAKER. Mr. President, might I inquire: What is the parliamentary situation at this time?

The VICE PRESIDENT. In a minute and 26 seconds, we will vote on the motion to table.

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

I have previously stated on the floor that it is my intention to vote for this bill. It is my intention to support registration. I think it is a prudent and wise step to take at this time.

I have, in the course of the last several hours and last few days, to protect the rights of those who disagree with that point of view and to assure that they had an opportunity to make their case. I believe that, under these circumstances, the purposes of all Senators have been well served.

Mr. President, I take this opportunity to express my appreciation to the majority leader for arranging the time, the brief time this evening, so that other matters could be attended to.

I intend to vote in favor of the motion to table.

The VICE PRESIDENT. All time has expired.

The question is on agreeing to the motion to table the committee amendment as amended. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Crum, the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from New Hampshire (Mr. Durkin), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Moore), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

Mr. WARNER. Mr. President, regular order.

The VICE PRESIDENT. Are there any Senators wishing to vote?

The result was announced—yeas 63, nays 24, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—63

Armstrong
Bellmon
Boschwitz
Buchanan
Chafee
Cranston
Demings
Dornenburger
Eagleton
Evon
Ford
Garm
Gravel

NAYS—24

Baker
Baucus
Bayh
Bennet
Boren
Bradley
Bumpers
Burdick
Byrd
Byrd, Robert C.
Chiles
Cochran
Cranston
Domenici
Domenici
Durenberger
Eagleton
Evon
Ford
Garm

NOT VOTING—13

Biden
Bellmon
Boschwitz
Buchanan
Chafee
Cohen
Culver
Danforth
Dole

Biden
Bellmon
Boschwitz
Buchanan
Chafee
Cohen
Culver
Danforth
Dole

NOT VOTING—14

Biden
Bellmon
Boschwitz
Buchanan
Chafee
Cohen
Culver
Danforth
Dole

The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

Mr. WARNER. Mr. President, regular order.

The VICE PRESIDENT. Have all Senators voted?

The result was announced—yeas 67, nays 19, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—67

Armstrong
Bellmon
Boschwitz
Buchanan
Chafee
Cranston
Demings
Dornenburger
Eagleton
Evon
Ford
Garm

NAYS—19

Biden
Bellmon
Boschwitz
Buchanan
Chafee
Cohen
Culver
Danforth
Dole

NOT VOTING—14

Biden
Bellmon
Boschwitz
Buchanan
Chafee
Cohen
Culver
Danforth
Dole

So the motion to lay on the table the committee amendment, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the yeas and nays were ordered.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

Mr. ARMSTRONG. Mr. President, will the Chair state the question?

The VICE PRESIDENT. The question is on agreeing to the motion to lay on the table the motion to reconsider.
The Senator from Georgia (Mr. Nunn) proposes amendment numbered 1823: On page 2, line 5, strike out "$13,295,000" and insert in lieu thereof "$13,295,000".

Mr. NUNN. Mr. President, this is an amendment of substantial business by $10,000 the appropriations relating to the storage of registration forms, and at the appropriate time I certainly hope we can get a vote on it and hopefully tonight, but I think we should have plenty of time to discuss it.

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 6 Leg.]

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**The PRESIDING OFFICER (Mr. LEAHY). A quorum is present.**

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The President from Oregon.

Mr. HATFIELD. Mr. President, I move to recess until 9:30 a.m. and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, that motion is not in order calling for a recess until 9:30 because we have an order to come in at 10.

The PRESIDING OFFICER. The majority leader is correct. There is an order entered that when the Senate completes its business today it stand in recess until 10 a.m. tomorrow.

Mr. HATFIELD. Mr. President, I move to recess pursuant to the previous order, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senate from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Chafee), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent.

The PRESIDING OFFICER. A quorum is present.

The pending question is on the motion of the Senator from West Virginia (Mr. Robert C. Byrd) to table the motion of the Senator from Oregon (Mr. Hatfield) to reconsider the vote by which the Senator from Oregon's motion to recess was not agreed to.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

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

The yeas are for the motion to table. The question is on agreeing to the motion to table. The roll will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Chafee), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), the Senator from Texas (Mr. Tower), and the Senator from North Dakota (Mr. Young) are necessarily absent.

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

The result was announced—yeas 65, nays 10, as follows:

[Roll Call Vote No. 185 Leg.]

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<th>State</th>
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Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

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

The yeas are for the motion to table. The question is on agreeing to the motion to table. The roll will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Chafee), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

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Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

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

The yeas are for the motion to table. The question is on agreeing to the motion to table. The roll will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Chafee), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

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Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

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

The yeas are for the motion to table. The question is on agreeing to the motion to table. The roll will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Chafee), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

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So the motion to lay on the table the motion to postpose indefinitely was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which this action was tabled, and, Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the motion to reconsider is dilatory. The vote in favor of the previous motion was 78 to 18, in favor of the reconsideration motion was 50 to 36. Mr. President, I therefore make the point of order that the motion is dilatory and I make the point of order.

The PRESIDING OFFICER. The Senate will be in order. Just a moment.

Mr. HATFIELD. I appeal the ruling of the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader was the first to speak. Mr. BAKER. Mr. President, I seek recognition on my own time. Mr. President, I know of no precedents of the Senate with respect to the absence of a quorum. I ask that the Senate be called to order. The Chair is aware of no precedent. I have participated previously in ruling out of order amendments that were clearly dilatory under rule XXII and on their face. I believe this is clearly a different situation.

The PRESIDING OFFICER. The distinguished minority leader suspend for a moment?

Would the Senator from Oregon restate what his motion was prior to the ruling of the Chair? Mr. HATFIELD. The Senator from Oregon made a motion to reconsider the vote by which the majority had been tabled. The Senator from Oregon voted on the prevailing side.

The PRESIDING OFFICER. The Chair reverses itself. The motion is in order.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum. I have already moved to reconsider and now I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair is aware of 50 Senators in the Chamber, in excess of 50 Senators in the Chamber. The Chair will ask the Parliamentarian if it is necessary to have a quorum call under the circumstances.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Under the precedent 2/3 years ago, the Chair had ruled that there was a quorum and observed a quorum right after we had heard a roll call. The Chair after reversing itself on the subject, is aware of a quorum.
Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Tennessee will state his inquiry.

Mr. BAKER. Mr. President, I recall that precedent because I participated in establishing it, and I recall as well that the precedent that permits the Chair, I believe, to observe the presence or the absence of a quorum follows on a vote without any intervening motion or business. That is not the situation here, Mr. President. I think this precedent does not apply.

I would also point out, Mr. President, that under the precedents at that time we had been involved in the Abourezk/Metzenbaum filibuster, post cloture filibuster, for days. It was an entirely different thing. We have been involved here for a matter of hours in post cloture.

I respectfully suggest that to invoke this precedent at this time is to substantially increase the scope of that precedent which is improper.

The PRESIDING OFFICER. So the Chair can thoroughly understand the minority leader, the minority leader is saying that if the Chair sees 51 Senators after a vote that is different than if the Chair sees 51 Senators 69 seconds after a vote?

Mr. BAKER. Of course not. What I am saying is, No. 1, no point of order has been made. I suppose that may happen, but none has been made so far. No. 2, that we have an entirely different factual situation, that it does not follow on the pattern that was established in that precedent. It was a rather severe precedent and it should be followed, in my judgment, only in the most careful circumstances. This is not an analogous situation and it should not be invoked in this case to deprive the Senator from Oregon of his rights.

The PRESIDING OFFICER. The Chair was willing, as the astute minority leader knows, to reverse itself on what has been called a parliamentary inquiry on dilatory matters, even though the Chair was convinced it had adequate precedents to sustain its earlier rulings on subjective matters. The Chair, however, speaking both as Presiding Officer and in his capacity as Senator from Vermont, would find it would view intolerable the inability of the Chair’s own logic to look out here and see substantially in excess of 51 Senators and declare we need a rollcall for a quorum. Possibly some subsequent Presiding Officer may feel differently than the present Chair.

Mr. BAKER. I thank the Chair. I would remind the Chair that the call for a quorum and the ascertaining of a quorum is not a prerogative of the Chair but it is a constitutional right. I would suggest that the Chair’s ruling should not apply in this case.

The PRESIDING OFFICER. Under the precedent which the Chair cited before which the minority leader is aware of and participated in, there was no mention of intervening business by the Chair. If the minority leader would like, I will be glad to read the transcript of that matter.

Mr. BAKER. Mr. President, I will read that. I will yield now to the Senator from Oregon so he can make his motion.

Mr. HATFIELD. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. ARMSTRONG. Will the Chair state the question so Senators may be guided? If we wish to sustain the Chair, how do we vote?

The PRESIDING OFFICER. The question is, Shall the decision of the Chair that the call for a quorum under the present circumstances, the Chair having ascertained a quorum being present, was dilatory, and should that ruling stand as the judgment of the Senate? A yeo vote would agree with the Chair.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. BOREN). The clerk will suspend. Will Senators please clear the well? The Senate will be in order.

The clerk may proceed.

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

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Craig), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senators from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STENNIS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators present desiring to vote?

The result was announced—yeas 52, nays 34, as follows:

[Rolecall Vote No. 188 Leg.]

YEAS—52

Armstrong Natoma-34

Baker Helms Presider

Bilinon Helmets Roth

Bouchard Humphrey Schmeltzer

Cochran Simpson Simms

Cooper Simpson Smith

Cranston Kassebaum Thurmood

Durenberger Laatsch Towner

Durenberger McClure Welch

Durenberger McDougal Welch

Hatch Percy

NOT VOTING—14

Biden Long Morgan

Biden Stevens Talmadge

Biden Young Young

The PRESIDING OFFICER. On this vote, the yeas are 52; the nays are 34. The ruling of the Chair stands as the judgment of the Senate that the call for the quorum was dilatory.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays on my motion to reconsider.

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

The yeas and nays were ordered.

The question is on the motion to reconsider the vote by which the motion to extend the time to vote was post-poned indefinitely the consideration of the bill was agreed to. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. Church), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from South Carolina (Mr. Hollings), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from Mississippi (Mr. Stennis), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from Delaware (Mr. Biden) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. Cohen), the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from North Dakota (Mr. Young) are necessarily absent.

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

The result was announced—yeas 14, nays 71, as follows:

[Rolecall Vote No. 189 Leg.]
The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment offered by the Senator from Georgia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from South Dakota (Mr. MCGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Mississippi (Mr. STEINNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from Delaware (Mr. BIDEN) is absent on official business.

Mr. STEVENS. I announce that the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mrs. KASHEBAUM), the Senator from Maryland (Mr. MATHIAS), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

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

The result was announced—yeas 15, nays, 69, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—15

Armstrong Riegel
Bellmon
Culver
Dauforth
Heinz

NAYS—69

Baker Ford
Baucus Glenn
Bayh Pinn
Bentsen Percy
Boren Prest
Boschwitz Pryor
Bradley Randolph
Bumpers Ribicoff
Burke Roth
Burdick Sasse
Byrd
Harry P., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cooper
Cranston
DeConcini
Doles
Domenici
Durenberger
Durkin
Eagleton
Exon

NOT VOTING—16

Biden Javits
Church Kashebaum
Cohen Kennedy
Goldwater Long
Gravel Mathias
Hollings McGovern

NOT VOTING—16

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Church Kashebaum
Cohen Kennedy
Goldwater Long
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