

SENATE—Friday, October 30, 1981

(Legislative day of Wednesday, October 14, 1981)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable ROGER W. JEPSEN, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Almighty God of grace and mercy, love and forgiveness, we need a special dispensation from Thee and our problem is compounded if we are unaware of our need. This has been a heavy, difficult week, full of tension and pressure, in which the eyes of the Nation and the world were fixed on the Senate. Feelings have run deep and disagreement has been wide; some have experienced profound disappointment while others were exhilarated; but we are one in allegiance and purpose. We thank Thee for the diversity that distinguishes us and for the transcendent reality that unites us.

Dear God, deliver the people from divisive reactions. Dissolve the enmity that alienates, that hardens into bitterness and hate and vindictiveness. Help the people to understand and respect the unique democratic process by which our legislative bodies operate. Sensitize them to the burden of hard decisions Senators must make which will never please everybody. Help them to see that such struggle was the crucible out from which our forebears conceived this Republic. Then let us be thankful, O God, for the magnificent legacy which is ours. In Jesus' name we pray. 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. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 30, 1981.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROGER W. JEPSEN, a Senator from the State of Iowa, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

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

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, at the end of the time allocated to the two leaders under the standing order, there be a brief period for the transaction of routine morning business to extend not past the hour of 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

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

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, under the previous order, at the conclusion of the time for the transaction of routine morning business, the Senate will proceed to the consideration of the District of Columbia appropriations bill. I expect that the District of Columbia appropriations bill can be disposed of in the course of this day and, perhaps, after a relatively brief period for debate.

At the conclusion of the consideration of the District of Columbia appropriations bill under the order previously entered, the Senate will resume consideration of the agriculture appropriations bill, at which time the Mattingly amendment, No. 620, will be pending, also under the terms of the order previously entered.

Mr. President, I will expect votes throughout the day. I urge Senators to note the previous admonitions of the leadership that Friday will be a busy day. It is my hope that we can finish both of these bills today. I would expect votes throughout the afternoon.

Mr. President, I have no further need for my time under the standing order and I am prepared to yield it to any Senator.

Mr. President, I inquire of the distinguished acting minority leader if he has any requirement for additional time.

Mr. LEAHY. I have no requirement for additional time. It would be my intention to yield some of the minority leader's time to the distinguished Senator from Wisconsin, who wishes to speak. But I know of no requirement for additional time.

Mr. BAKER. I thank the Senator.

Mr. President, in light of the possibility some Senator may require additional

time, I ask unanimous consent that I may reserve the remainder of my time under the standing order for the time being.

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

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. LEAHY. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

WHY NOT KEEP THE BEST?

Mr. PROXMIRE. Mr. President, an old play is now being scripted in the bureaucratic halls of the Pentagon. It is a play that comes up every 2 years. The actors basically are the same. The plot line remains constant.

It is the story of the attempts by Admiral Rickover's detractors to deny him an extension of his active duty.

As in the past, I hope that the outcome also remains the same. The reason is simple. The Nation cannot afford a change in command.

It is no exaggeration to say that no other individual has made a greater contribution to the defense of the United States than Admiral Rickover. No other.

Our most secure deterrent, the submarine fleet, is the product of one demanding executive. Without his single-minded will and discipline, it is unlikely that our Nation would be able to rest in the assurance that our submarine fleet represents the most safe and secure retaliatory force in the world.

From time to time, Admiral Rickover has told me that I was flat out wrong in my opinions about some defense issues. We disagree on nuclear aircraft carriers for example. In so doing, however, he never fails to educate, and he never fails to make a solid intellectual argument that is extremely difficult to refute.

Admiral Rickover is more than an individual. He is an institution. He is a program. He is a one-man navy.

I urge the officials of the Department of Defense to resist the petty, real, or perceived grudges held by some against Admiral Rickover and to allow our country to benefit by his continuing service.

Mr. President, I ask unanimous consent that a recent article by R. James Woolsey that appeared in the October 28 Washington Post be printed in the RECORD.

There being no objection, the article

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

was ordered to be printed in the RECORD, as follows:

THE SURVIVOR

(By R. James Woolsey)

One of this century's unique figures is about to be in the news again. By February of even-numbered years, since time out of mind, the secretary of the Navy has had to decide whether to extend Adm. Hyman G. Rickover's active duty for yet another two years. The current secretary, John Lehman, can expect at least as much advice on this pending decision as countless of his predecessors—from such random quarters as the odd congressional committee chairman, passers-by on the street, and other casually interested folks, such as, say, the president. The decision is usually made the preceding summer or early fall, so the papers are probably in Lehman's in-box by now—sitting there staring at him.

The object of all this biennial attention is not only Washington's ultimate survivor, he is—more importantly—one of its perennial winners. The two traits are not unrelated. As the years have rolled on he has come to know more and more about the business of building and operating nuclear-powered ships. He and his staff have such a combination of institutional memory and expertise, especially compared with the civilians who come and go from the Defense Department, that they win a good many more than they lose. He has both survived because he wins and won because he has survived.

For many years he has played the Hill the way Casals played the cello, but many of his strongest congressional supporters—Pastore, Rivers, Hebert—are no longer around. And he is not the darling of the new military reform movement.

Rickover's influence, in the Navy and in the country, has spread light years beyond the construction of naval nuclear reactors. Seeing the need for better-educated officers and enlisted men to run his power plants, for example, he has become a major force in education at the Naval Academy and in the NROTC program. His "why-not-the-best" standards about nuclear ship propulsion have affected the rest of the Navy as well, to the point that generations of non-nuclear officers have gnashed their teeth at having to go to a special school on conventional propulsion before assuming their seagoing commands.

Rickover is the scourge of the conglomerate builders of nuclear-powered warships, insisting on maintaining a whip hand over his projects that leaves very little room for their corporate notions of profit, and none for the Washington lawyers who handle their claims against the government. "I treat the government's money as if it were my own" he is fond of saying. There are several corporate board rooms where they must wonder if Hyman Rickover has ever spent a nickel on himself.

In the strength of his no-nonsense personality, in the indomitability of his will, and in his—well—prickliness Rickover resembles only a few modern figures. To me the closest parallels are Charles de Gaulle and Menachem Begin. These sorts of men simply seem to have a greater specific gravity than other people. They distort the force fields around them, bending more of the world to their wills than seems possible or reasonable, especially to those who get bent. Such men can be infuriating to deal with, and when they are wrong, their mistakes can be as lasting as their triumphs.

But the de Gaulles, the Begins, and the Rickovers are the people whose impacts reach far beyond, and last long after, their own lives. You disagree with the Kindly Old Gen-

tleman, as he is sometimes dubbed in the Pentagon, about the proper size for aircraft carriers, or any of a number of other subjects? You are one of those unfortunates who has had a major (or even minor) set-to with him and remember feeling as if you had gone 12 rounds with Ali? I understand, believe me.

Still, keep a few things in mind: There is no Soviet skipper, anywhere in the world, who sleeps soundly in his sea cabin. He can never be sure that he isn't in the cross-hairs of the periscope of one of Rickover's marvelous, quiet black attack boats. And, as we fuss with the MX and the agonizingly hard problem of fixing the vulnerability of our ICBMs, we have some breathing space—because some more of Rickover's products, carrying their Poseidon and Trident missiles, slip silently on patrol somewhere beneath the Atlantic and Pacific.

His ships are commanded and operated by some of the most extraordinarily able and professional men you will ever meet. Their standards, and those of many of their colleagues in other parts of the Navy, have been shaped directly and indirectly by Rickover's will and perfectionism.

Yes, his standards are so high that there are only two-thirds as many such nuclear-trained officers as we need, and the ships are so expensive that we can't afford nearly enough of them. But unlike much in our modern society, and much in our military establishment, they work, and they work safely and superbly.

So join the watch to see whether John Lehman signs those papers. But while you're wondering whether Rickover will retire this winter or will be sitting there in his office, growling into his telephone, in the 21st century—and whatever your preference in the matter—undertake an instructive little intellectual exercise: try to think of another living American to whom you owe more.

**THE GENOCIDE CONVENTION
WOULD NOT ENDANGER AMERICAN
SERVICEMEN IN ANY WAY**

Mr. PROXMIRE. Mr. President, consider the allegations made in the Liberty Lobby's "White Paper on the Genocide Convention": that if this treaty were ratified our officers and enlisted men are certain to be charged with genocide in the fulfillment of their duties.

Mr. President, here we have a classic example of Liberty Lobby's style of argumentation. They make this preposterous allegation—without any substantiation whatsoever. There is not one shred of evidence in this report—not one—to back up this statement.

Let us look at the facts, Mr. President. First, what does our own Defense Department have to say about the Genocide Convention? After all, I know of no other agency of the U.S. Government which is more concerned about the impact of any treaty upon our servicemen.

And what do they say? Ratification of the Genocide Convention would be a "positive step in the national interest of our country." A positive step in our national interest, Mr. President.

That view is shared not only by the level of the Secretary of Defense but each and every branch of our Armed Forces and I ask unanimous consent that letters from each of the branches of our Armed Forces to the American Bar Association be reprinted in the RECORD at the conclusion of my remarks.

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

Mr. PROXMIRE. Second, the State Department shares the views of the Defense Department that this treaty poses no threat to our servicemen. As David Abshire, Assistant Secretary of State, pointed out in the 1976 hearings before the Foreign Relations Committee, the Genocide Convention "does not alter the rules of warfare or the obligations of parties to the Geneva Conventions on the treatment of prisoners of war." Nor does it "apply to civil wars."

Third, as George Aldrich, the deputy legal adviser for the State Department during the Nixon administration, made clear during the 1970 hearings: The United States has always reserved for itself exclusive jurisdiction over the actions of our servicemen during time of war.

This is a further safeguard, Mr. President, which would prevent spurious charges of genocide.

Fourth, and here is a point of commonsense, Mr. President, that cannot be emphasized enough: This treaty requires proof of intent.

Intent to eliminate in whole or in part a national group. Intent to eliminate in whole or in part a racial group. Intent to eliminate in whole or in part a religious group. Intent to eliminate in whole or in part an ethnic group. "Intent" is the key word, Mr. President.

And as Bruno Bitker, a prominent member of the American Bar Association and one of the most eloquent experts on this treaty, points out hostile actions in combat situations do not in and of themselves contain this necessary element of "intent."

In conclusion, Mr. President, the Liberty Lobby throughout its "White Paper on the Genocide Convention" has consistently strayed from the facts. Instead it has relied on innuendo and unfounded allegations to make its points. Their rhetoric has only served to underscore the weakness of their case.

Mr. President, as I have pointed out, time and again, this treaty merely seeks to extend on an international level a fundamental principle long recognized and cherished by all Americans: the right of all groups, ethnic, racial, religious, and national to exist. The precious right to live.

This treaty is perfectly consistent with our Constitution and, as our own Defense Department has pointed out, it is in our national interest.

Mr. President, we have waited far too long to ratify this important convention. Let us not wait any longer.

EXHIBIT I

**GENERAL COUNSEL
OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., February 9, 1976.**

HARRY A. INMAN, Esq.,
Delegate, Section of International Law, to
House of Delegates, American Bar Association, Washington, D.C.

DEAR MR. INMAN: I appreciate your calling to my attention the Section's Resolution on the Genocide Convention which will be pre-

sented to the House of Delegates at its Mid-year Meeting February 16 and 17.

The Department of Defense fully supports the position of the Administration that the United States should accede to the Genocide Convention with the Understandings and Declaration which were approved by the Senate Committee on Foreign Relations in S. Exec. Report No. 93-5, 93rd Congress, 1st Sess., (1973).

Inasmuch as the Section's Resolution is in complete accord with that position, I am pleased to endorse it by this letter. I share the Section's conclusion that acceding to the Convention would be a "positive step in the national interest of our country."

RICHARD A. WILEY.

DEPARTMENT OF THE NAVY,
OFFICE OF THE
JUDGE ADVOCATE GENERAL,
Washington, D.C., February 13, 1976.

HARRY A. INMAN, Esq.,
Delegate, Section of International Law, to
House of Delegates, American Bar As-
sociation, Washington, D.C.

DEAR MR. INMAN: Your letter of February 4, 1976, to Mr. Waldemar Solf concerning the Genocide Convention has been brought to my attention. I am also aware of the views expressed by Mr. Richard A. Wiley, General Counsel, Office of the Secretary of Defense, in his letter on this subject of February 9, 1976.

I share the views expressed by Mr. Wiley and endorse the resolution of the American Bar Association's Section on International Law concerning the Genocide Convention.

I support accession to the Convention subject to the Understandings and Declaration approved by the Committee on Foreign Relations of the United States Senate.

Sincerely,

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy,
Deputy Judge Advocate General.

DEPARTMENT OF THE ARMY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D.C., February 11, 1976.

HARRY A. INMAN, Esq.,
Delegate, Section of International Law, to
House of Delegates, American Bar As-
sociation, Washington, D.C.

DEAR MR. INMAN: Mr. Solf has called my attention to your letter of 4 February 1976 requesting the support of the service Judge Advocates General for the resolution of the ABA Section on International Law concerning the Genocide Convention.

I am pleased to concur in the views expressed by Mr. Richard A. Wiley, General Counsel, Office of the Secretary of Defense, in his letter of 9 February to you. I endorse the Section's resolution and fully support accession to the Genocide Convention with the Understandings and Declaration which were approved by the Senate Committee on Foreign Relations.

Sincerely,

WILTON B. PERSONS, Jr.,
Major General, U.S.A.
The Judge Advocate General.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 13, 1976.

HARRY A. INMAN, Esq.,
Delegate, Section of International Law, to
House of Delegates, American Bar As-
sociation, Washington, D.C.

DEAR MR. INMAN: At the request of Air Force members of the ABA Section of International Law, I have reviewed the Section's recommendation and report concerning the Genocide Convention.

I believe reluctance by the United States to become a party to the treaty may be sub-

ject to misinterpretation in other countries. The laws of the United States under which the U.S. Air Force operates are consistent with the principles of the Convention. Accordingly, I agree with the view of the Defense Department's General Counsel that accession to the Genocide Convention, with the understandings and Declarations approved by the Senate Committee on Foreign Relations, would be a positive step.

Sincerely,

HAROLD R. VAGUE,
Major General,
The Judge Advocate General, U.S.
Air Force.

Mr. PROXMIRE. Mr. President, I thank the distinguished acting minority leader. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that I may reserve the remainder of the leader's time while we check to see if there is anyone else who may need it.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., during which Senators may speak for 5 minutes each.

The Senator from Alabama is recognized.

75TH ANNIVERSARY OF THE HOLY TRINITY-HOLY CROSS GREEK ORTHODOX CATHEDRAL IN BIRMINGHAM, ALA.

Mr. HEFLIN. Mr. President, on Sunday, October 11, 1981, I had the honor to participate in the grand banquet celebration of the 75th anniversary of the founding of the Holy Trinity-Holy Cross Greek Orthodox Cathedral in Birmingham, Ala.

This anniversary marked the observance of a great milestone in the history and life of this great Birmingham church. It was a beautiful and touching occasion, not only for the parish, but also for the Birmingham community and Jefferson County, to which the parish belongs.

In the early years, the majority of members immigrated from Greece in order to build a better life for themselves and their families. They were then, and are now, patriotic Americans who love and are dedicated to their country and to their church. These early immigrants

wanted very much to belong and become actively involved in their new community. This involvement started with the creation of a place of worship where they could give thanks to God for enabling them to come to this great country of ours. Today, the congregation of the Holy Trinity-Holy Cross Greek Orthodox Church is still very much involved in the activities of their church and community.

Mr. President, The Holy Trinity-Holy Cross Greek Orthodox Cathedral is the largest Greek Orthodox Church in the State of Alabama, and the fifth oldest Greek Orthodox Church in the United States. This parish was first established in 1906 and was then known as the Holy Trinity Greek Orthodox Church. The first priest of this church was the Reverend Callinicos Kanellos. As the Greek Orthodox community grew, the Holy Cross Greek Orthodox Church was established in another section of the city of Birmingham in 1933, and the first priest of this parish was the Reverend Dionysios Dimitsanos. Both of these churches were united into one parish in 1953, and the first priest at the new Holy Trinity-Holy Cross Greek Orthodox Church was the Reverend Emanuel Bouyoucas.

Today, the cathedral has as its dean the Reverend Father Emanuel Z. Vasilakis. Of course all of the priests of the church were very dedicated to their church and congregation. The parish now is proud, I am sure, to have Father Emanuel as its dean, for he is not only head of his parish but he is also actively involved in the Birmingham community. Father Emanuel had the honor to be appointed this year as a delegate of the Greek Orthodox Church of America to the White House Conference on Aging.

Mr. President, this was indeed a grand and joyous occasion. I should like to bring to your attention, and to the attention of my colleagues, the people from all segments of the Birmingham community who joined in this celebration, and also to commend the members of the parish who worked very hard to make the celebration a great success.

The invocation was given by His Eminence Archbishop Iakovos, Primate of the Greek Orthodox Church of North and South America. In attendance were His Grace Bishop John of Atlanta of the Greek Orthodox Diocese of Atlanta; Reverend Father Emanuel E. Bouyoucas, and the Reverend Father Emanuel Z. Vasilakis, dean of the Greek Orthodox Cathedral of Holy Trinity-Holy Cross.

Also attending the celebration were Hon. Richard Arrington, Jr., mayor of the city of Birmingham; Miss Molly Moore, assistant to the first lady, representing Gov. and Mrs. Fob James; Hon. George D. H. McMillan, Jr., Lieutenant Governor of the State of Alabama; Hon. Dimitri Eskouris, Consul of Greece in New Orleans, La.; the Reverend Paul Rohling, Chancellor of the Catholic Diocese of Birmingham in Alabama; Dr. Neal Berte, president, Birmingham-Southern College; the Rev-

erend Dr. C. Brinkley Morton, dean of the Church of the Advent Episcopal Cathedral; Rabbi David Jeremy Zucker of the Temple Emanu-El Reform; and a representative of Hon. ALBERT LEE SMITH, JR., U.S. Representative of the Sixth District of the State of Alabama.

Mr. President, also partaking in the ceremonies were my friends Mr. Sergei Kampakis, president of the parish council, Mr. Jerry O. Lorant, the toastmaster of ceremonies, and Dr. Peter W. Morris and Mr. Gregory J. Despinakis, who both gave an enlightening history of the Greek community in Birmingham.

Mr. President, as mentioned earlier, this celebration could not have taken place without the hard work of the members of this parish. I wish to pay tribute to all who participated in this great occasion. The National Anthems of the United States and Greece were beautifully sung by Ms. Cathy Nakos; The entertainment was directed by Mrs. Peter W. Morris, and included Stephanie Bouloukos, Arthur Constantine, Gregory Constantine, Paul Constantine, Tommy Constantine, Helen Cosmas, Lynn Grammas, Mary Grammas, Alycia Gulas, Bill Gulas, and Maria Mandalis; musical selections were performed by Miss Pauline Constantine, Dr. John G. Corcoris, Mr. Emanuel J. Vakakes, and Mr. Nick Velotas, accompanist, under the direction of Mr. Cameron P. Grammas; chamber music was performed by George Kentros, Jr. and ensemble.

Many committees were formed to organize this event. The 75th anniversary general chairmen were Mr. Sergei Kampakis, Mrs. Connie Kanakis, and the Reverend Father Emanuel Vasilakis; banquet chairman, Mrs. Ernest G. Pappas; dinner committee, Mr. Peter Gerontakis, Mr. Theodore Lafakis, Mr. Steve M. Leontis, Mr. George Sissa, and Mrs. John Dikis; decor committee, Arthur G. Garikes, Mrs. Peyton McDaniel, Ms. Linda S. Wilson; publicity committee, Miss Despina Vodantis, and Mrs. Emanuel J. Vakakes; programs committee, Miss Carol Pappas; reception committee, Mr. Deno Fifies; reservations and tickets committee, Mrs. Connie Kanakis, and Mrs. Deno Fifies; musical committee, Mr. Cameron P. Grammas, Mr. Nick Velotas; special floor show entertainment committee, Mrs. Peter W. Morris; guest accommodations committee, Mrs. Connie Kanakis; beverages committee, Mr. Sergei Kampakis.

Mr. President, I am very proud of this church, its history, and its members. I was very privileged to join them in this grand celebration.

TRIBUTE TO JOE STEWART

Mr. HEFLIN. Mr. President, it is a pleasure to join my colleagues in paying tribute to a fine individual and dedicated staff member of the U.S. Senate, Joe Stewart.

After 30 years of unyielding dedication to this body, Joe has decided to accept employment with a private concern. The Senate recently passed Senate Resolution

214 in recognition and praise of Joe Stewart and the superior service he has rendered in behalf of the citizens of the United States and the U.S. Senate.

Joe is one of the most industrious individuals I have ever known. His career with the Senate began in 1951 when he was appointed as a page to Senator Holland of Florida. Joe graduated from Capitol Page School as president of his class in 1953. He then proceeded to work diligently in a variety of capacities, including service as a staff member for the Appropriations Committee and as a legislative assistant to Senator ROBERT C. BYRD. In 1979, Joe began his distinguished tenure as secretary to the majority of the U.S. Senate. In 1981, he served as secretary to the minority of the Senate.

In addition to dedicating himself full time to the Senate, which we all know more often than not exceeds a 40-hour week, Joe managed to successfully complete his undergraduate degree as well as attain his law degree from the American University Law School in 1963. Such unyielding dedication is exemplary of Joe's outstanding service to the Senate.

Joe's energetic manner has been invaluable to us all during pressing and difficult times. He was always available to assist, and to provide valuable advice based on the knowledge and expertise he acquired over the course of his valuable career with the U.S. Senate.

Indeed, Joe has left his mark on this institution as one of its ablest and most dedicated staff members whose fine work goes unsurpassed.

I have no doubt that Joe will be tremendously successful as he ventures into the private sector. Joe, I join my colleagues in wishing you the greatest success in the years ahead.

Mr. President, I yield back the remaining portion of my 5 minutes.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

EMPLOYEE GROUP BUYS GM FACILITY

Mr. LONG. Mr. President, today in Clark, N.J., an event is taking place that will, I hope, become a model for American industry. This event is the signing of legal documents that will enable the employees of the New Departure-Hyatt Bearings Division of General Motors to buy that facility through the use of an employee stock ownership plan (ESOP).

Earlier this year, it appeared that this plant would close, leaving General Motors to buy less expensive parts elsewhere, including from less costly producers abroad. Rather than permitting their employer to close, however, the employees formed a Hyatt-Clark Job Pres-

ervation Committee (comprised of union and salaried workers) and hired consultants to evaluate the feasibility of operating the facility as an independent, employee-owned business entity.

The feasibility study found that, given the right set of circumstances, the company could not only survive but possibly thrive. The circumstances involved an interplay of many factors—with each party to the transaction pitching in to make the employee buyout possible.

A crucial element in the determination of feasibility was GM's commitment to buy a large portion of the plant's ball-bearing output over the next 3 years. General Motors also agreed to sell the plant's real estate in exchange for a block of nonvoting preferred shares in the new Hyatt Industries, Inc. This partial financing, plus the guaranteed order, represent GM's commitment to the success of this venture.

Local lenders were also helpful in providing a mortgage loan and in extending credit for working capital. In addition, several distinguished individuals agreed to contribute their professional expertise by serving on the board of directors. Federal financial assistance is also being sought to replace a temporary extension of credit that was arranged in order to complete the financing package. It is my hope that this Federal assistance will soon be forthcoming.

The employees have also demonstrated their commitment to the venture. In addition to contributing more than \$100,000 to determine the feasibility of the acquisition, the employees have also agreed to a salary reduction of approximately 30 percent. In exchange, the employees will (through their ESOP) receive an ownership stake in the company's future. In addition, a proposed productivity bonus plan could replace a substantial amount of the employees' otherwise reduced take-home pay. The work force was also reduced by approximately 50 percent.

The new company also plans to substantially revise its management practices, including more decisionmaking input by the rank and file—for example, inclusion on the board of directors of two leaders of local 736 of the United Auto Workers. Recognizing that long-term survivability depends on their ability to compete, those involved are determined to establish a new company spirit, a spirit of high quality workmanship and increased productivity.

Mr. President, it is hoped that this Government will see fit to make some funds available to help consummate this transaction.

This employee group is to be commended for their creativity, their persistence and their foresight in proceeding with this employee buyout. I wish everyone involved the best of success in this exciting new venture. It is my hope that this action will set the pattern both for American business and for American labor. Over the long run, I am convinced that we will have a stronger economy if more working Americans begin to share

an ownership stake in their place of employment.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

DISTRICT OF COLUMBIA APPROPRIATION ACT, 1982

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 4522, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4522) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1982, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations.

Mr. D'AMATO. Mr. President, it is a pleasure to present to the Senate today a balanced budget for the District of Columbia. We held extensive hearings on the budget requests of the various city departments and agencies and found them to be generally well thought out and fiscally prudent.

Mr. President, the bill as reported is below the budget request, below our allocation under the budget resolution and reflects the provisions of the reconciliation bill passed earlier this year. In total the Federal funds equal \$557.2 million. This is comprised of: \$336.6 million for the Federal payment; \$13.5 million for water and sewer services to Federal facilities; \$52.1 million for retirement fund contributions; and \$155 million for capital project loans.

The Federal payment represents an increase of \$36.6 million above the House allowance. This increase was proposed by the President and included after the authorization was passed. This is the first authorized increase in the Federal payment in the 6 years since home rule. It should be noted at this time that in his September budget amendments the President made no recommended reductions in the District budget. That does not mean that the city has been immune from program reductions. Like any other local government they will feel the impact of Federal budget cuts. As of last July, as a result of the March budget proposals and reconciliation the city estimated a loss of \$71 million in expected Federal funds. This does not include the impact of the September recommendations which will certainly increase that figure.

Mr. President, in addition to the Federal funds the committee also approves the entire city budget. After a thorough review we have requested approval of a \$1.9 billion budget for the city, including locally generated revenues.

Mr. President, this is a good bill. We have made recommendations that are supportive of the needs of the District and also protect the Federal interest in the city. I will not take the Senate's time to itemize the provisions contained in the bill and report. I would, however, highlight the following items:

First. We have allowed 179 more police officers than requested by the city. With crime nationally on the increase these resources are most important to the security of the city's residents and visitors.

Second. For the fire department we have allowed funds to add three ambulances to the city emergency medical services.

Third. We have required that a separate fund be established to insure that no Federal funds are used to support the lottery board.

Fourth. We recommend the full budget request of \$253.8 million for the public schools.

Fifth. The bill includes \$2 million to assist in issuing mortgage revenue bonds to provide low- and moderate-income mortgage loans to District home buyers.

Sixth. A capital appropriation of \$45.9 million for Metrorail construction.

Seventh. And \$10 million as the first installment on the repayment of the general fund deficit.

Mr. President this bill deserves our support. It will continue what we hope to be a long tradition which began in 1981 of balancing the District budget. This bill is totally consistent with, and supportive of, President Reagan's efforts to help put the city on a sound financial footing so that its reliance on Federal Treasury borrowing can be diminished and that its reliance on private money markets can become a viable reality.

GOVERNMENTAL DIRECTION AND SUPPORT

For governmental direction and support we recommend \$87,747,400 in fiscal year 1982. This appropriation includes funds for the operation of the 24 city departments and agencies under this heading. Included are the Council of the District of Columbia, Office of Mayor, Auditor, and the Office of the Inspector General. The Departments of Finance and Revenue and General Services. Also included in this amount is \$6,393,000 to continue the implementation of the District's financial management system (FMS). This system was established pursuant to Public Law 94-399 and is designed to give city managers more current and accurate information on the financial status of the District.

The bill includes \$1,100,500 and 24 positions for the Office of the City Administrator. The Mayor has designated the City Administrator as the chief administrative officer of the city and ordered all department heads to report directly to him in addition to the four Assistant City Administrators. In keeping with this expanded role, the Productivity Management Services unit has been transferred to the City Administrator from the Office of Budget and Resources Management. Also included in the bill is a \$2,500 expense allowance

similar to those provided for the Mayor and Council Chairman for the City Administrator. These funds will be drawn from other accounts and available for reimbursement of official expenses incurred in performance of the offices' duties.

An amount totaling \$24,563,100 is provided for the Department of General Services. We are aware of a provision in the House-passed version and Senate committee bill, H.R. 4121 which exempts rental payments from section 322 of the act of June 30, 1932, as amended (40 U.S.C. 278a). We support this measure as a cost saving measure. A total of \$1,348,300 is provided for the Retirement Board. These funds will be derived from the general fund in the amount of \$674,000 and \$674,300 from the proceeds of invested funds. The Board will use this appropriation to pay administrative, legal, and investment management fees. In addition \$150,000 is provided for the startup costs of the Statehood Constitutional Convention as required by initiative, D.C. Law 3-171.

ECONOMIC DEVELOPMENT AND REGULATION

For economic development and regulation the recommended amount is \$29,748,900, the same as the budget request. Of this amount \$15,429,400 is recommended for the Department of Housing and Community Development. Within this budget \$2,000,000 is provided to the Housing Finance Agency to assist in the issuance of \$100 million in mortgage revenue bonds. The proceeds will be used to make available low to moderate income owner occupied housing. The single family unit dwelling types assisted will be new construction, condominium and tenant sponsored cooperatives.

The committee report includes an expression of concern over the effect on affordable low- and moderate-income housing of the District's rent control policy. Recent investigations have disclosed that these controls by holding return on investment down venture capital is not attracted to the market. In turn reduced rental building income leads to lower tax assessments thus lowering government revenues. In short, it appears that the experience of rent control to date has been to aggravate the problems it was intended to correct.

Also included in the bill is \$628,000 and 14 positions to establish the Lottery and Charitable Games Control Board. The five-member Board was appointed by the Mayor in July 1981 following adoption of a referendum by District voters in November 1980. The bill also limits to locally generated revenues those funds which may be used in the operation of the Board. It is also expected that lottery revenues, which may total \$25 million in fiscal 1983, will be used to cover the operating expenses as provided in annual budget requests and appropriations. Those revenues excess to those expenses will be available to the city for other purposes. The Board will also regulate bingo games and charity raffles.

PUBLIC SAFETY AND JUSTICE

The bill includes \$365,258,900 for the public safety and justice functions of the

District of Columbia. Of this amount \$113,286,900 is for the Metropolitan Police Department, this is \$3,128,900 above the budget request. This increase is the result of an additional 179 police officers that has been included to bring the total to 3,800.

The amended budget request of \$42,626,300 is provided for the Fire Department. Included in this amount is \$948,000 to purchase three new ambulances and hire additional emergency medical personnel. We hope, and expect, that this will be only the first phase of an upgrading of the District's ambulance and emergency medical service.

The courts of the District of Columbia are allotted \$39,967,100 under this heading. Of which \$2,553,700 is for the Court of Appeals; \$27,264,700 for the Superior Court and \$5,831,500 is for the administration of the court system. The remaining amount, \$4,317,200 is for the Public Defender Service and Pretrial Services Agency.

Within the Department of Corrections, \$14,918,100 is for the payment due the Federal Bureau of Prisons for the per diem expenses of District prisoners held in Federal facilities. The bill also includes \$3,622,000 for a new adult medium security facility to house 400 persons. The current facility at Lorton, Va., is 133 persons over capacity and this new facility will meet the need to relieve overcrowding at the central facility.

The bill also includes a representation allowance of \$2,500 for the use of judges of the Appeals and Superior Courts. These funds will be drawn from other funds available to the court. From time to time foreign and domestic judicial representatives visiting the Nation's Capital on official business are entertained by the local judicial officials. Currently these expenses are paid out of pocket by individuals. This allowance would provide reimbursement for these expenses.

PUBLIC EDUCATION SYSTEM

We recommend \$378,301,700 for the public education system of the District. The Board of Education portion of this amount is \$253,794,400. This amount is the same as the budget request and provides for a per pupil expenditure of \$2,717 for the estimated 94,300 students. The average teacher to pupil ratio is estimated to be 1 for each 25 students. The amount recommended for the teachers retirement fund is \$60,220,900, this is \$12 million above the House allowance due to more recent actuarial estimates and the costs of the 1980 early out program.

The fiscal 1982 recommended budget for the University of the District of Columbia is \$48,937,100. The city and university are currently working on a master plan for the needs at the Van Ness and Mount Vernon Square Campuses. We look forward to receiving this plan to consolidate university functions and provide better educational services to its students.

Also recommended is restoration of the positions and funds for the Commission on the Arts and Humanities to allow increased program offerings for the handi-

capped. The full budget request of \$9,979,300 is recommended for the Public Library. We hope that future budgets will avoid the need to reduce library services further and possibly expand this community asset.

HUMAN SUPPORT SERVICES

For human support services the bill includes \$398,010,100. Of this amount \$12,074,600 is for disability compensation and \$8,477,000 is for the unemployment compensation fund for qualifying District workers. Concerning the former the report includes language indicating that the District has the authority to set its own disability compensation rate and program, rather than using the twice yearly increases as mandated under Federal law. We hope that this will be pursued as a potential cost saving measure.

The Department of Human Services is recommended to receive \$286,163,000 and includes the budget request for the Office of Eligibility Review and 45 positions. This Office confirms the eligibility of AFDC applicants and investigates cases of fraud in the program. The Office has never been fully staffed. We are asking that if that cannot be accomplished by January 1, 1982, or if the 45-position staff is inappropriate that we be so informed by that date with a revised budget for the Office.

We have been impressed by the ability of the Board and managers of District of Columbia General Hospital to hold the city share of the hospital budget to a constant percentage figure for several years, despite increases in health care costs. In fiscal year 1982, \$29,786,600 is recommended.

TRANSPORTATION SERVICES AND ASSISTANCE

For the District Department of Transportation \$39,283,400 is recommended in fiscal year 1982. The DOT capital budget is \$29,784,300 to repair the many miles of roads and bridges in the Washington area. This level will support efforts at a joint program to address the increasing needs to repair roads and bridges in the District between DOT officials and the National Park Service. The Park Service controls 301 miles of roads and 196 bridges in the Washington area, making their cooperation essential to addressing the infrastructure needs of the city's surface transportation system.

In addition \$78,800 is provided for the Washington Metropolitan Area Transit Commission, and \$84,319,400 as the District share of Metro service in 1982.

ENVIRONMENTAL SERVICES AND SUPPLY

For the general fund portion of the Department of Environmental Services \$31,287,300 is recommended, together with \$69,074,900 to be derived from the water and sewer enterprise fund for a total budget of \$100,362,200. We have also been concerned about the state of the city's water and sewer infrastructure. Analysis indicates that fully two-thirds of the city pipes are inadequate to handle current needs and should be replaced.

PERSONAL SERVICES

For personal services the bill includes \$34,801,100 to provide cost-of-living increase to District of Columbia employees. The bill also contains a cap of 32,953 on

District government employment which is 2,360 below last year's level.

REPAYMENT OF LOANS AND INTEREST

We recommend \$126,060,600 for the repayment of capital improvement loans to the District. These loans are repaid over a 30-year period and this amount represents the 1982 portion.

REPAYMENT OF THE GENERAL FUND DEFICIT

The bill includes \$10,000,000 solely for the purpose of retiring a portion of the \$388,000,000 accumulated deficit.

CONTINGENT SERVICE FUND

This fund is established with \$2.4 million from the School Board budget to be available when, and if the Mayor and the Board of Education can agree on a proposal to use vacant school buildings for office space.

CONVENTION CENTER

For the convention center the bill includes \$1,231,300 to be derived from the convention center enterprise fund. The center is under construction with completion expected in the fall of 1982. This appropriation will cover the anticipated staffing up of the center in preparation for the opening.

CAPITAL OUTLAY

For capital projects the bill includes a total of \$211,521,100. I will not list the individual projects since they appear in Senate Report 94-254 at page 43.

In closing Mr. President, I thank the members of the District of Columbia Subcommittee, particularly the distinguished ranking member, Senator LEAHY, for his support and diligent attention to this bill at each step of our committee's process. And to the chairman of the Appropriations Committee, Senator HATFIELD, for his counsel during our deliberations. He recommended improvements in the bill in his usual quiet and effective manner.

Mr. President, I commend the majority and minority staffs and again single out Senator LEAHY for his experience and his diligence in helping us to avoid some of the pitfalls that otherwise I believe we would have had some difficulty in overcoming.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for purposes of amendment as original text, provided that no point of order shall have been considered to have been waived if the request is agreed to.

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

The committee amendments agreed to en bloc are as follows:

On page 2, line 3, strike "\$300,000,000", and insert "\$336,600,000";

On page 3, line 9, strike "\$84,742,900", and insert "\$86,747,000";

On page 3, line 11, strike "Mayor and", and insert "Mayor";

On page 3, line 12, strike "Columbia", and insert the following: "Columbia, and \$2,500 for the City Administrator";

On page 4, line 3, after "That", insert "notwithstanding any other provision of law";

On page 4, line 7, strike "\$312,700", and insert "\$674,000";

On page 4, line 8, strike "\$1,035,600", and insert "not to exceed \$674,300";

On page 4, line 20, strike "\$28,096,100", and insert "\$29,748,900";

On page 5, line 1, strike "\$1,000,000", and insert "\$2,000,000";

On page 5, line 6, strike "\$1,000,000", and insert "\$2,000,000";

On page 5, line 14, after "payments", insert the following: "Provided further, That the District of Columbia will establish a special fund to assure that any moneys available to the Lottery and Charitable Games Control Board shall be derived from District of Columbia revenues";

On page 5, line 24, strike "\$363,811,900", and insert "\$365,258,900";

On page 6, line 20, after "Mayor", insert the following: "Provided further, That not to exceed \$2,500 for the Joint Committee on Judicial Administration shall be available from this appropriation for official purposes";

On page 7, line 2, strike "\$365,732,100", and insert "\$378,301,700";

On page 7, line 7, strike "\$48,119,200", and insert "\$60,220,900";

On page 7, line 10, strike "\$696,600", and insert "\$809,500";

On page 7, line 12, strike "\$4,115,000", and insert "\$4,470,000";

On page 8, line 4, strike "\$48,119,200", and insert "\$60,220,900";

On page 8, line 17, strike "\$394,259,300, and insert "\$398,010,100";

On page 9, line 11, strike "\$11,374,600", and insert "\$12,074,600";

On page 9, line 14, strike the colon, through and including "expenditures" on line 19;

On page 10, line 20, strike "\$19,625,800", and insert "\$34,801,100";

On page 17, strike line 22, through and including line 25;

On page 18, line 1, strike "112.", and insert "111.";

On page 18, line 7, strike "32,922", and insert "32,953";

On page 18, line 8, strike "31,953", and insert "31,994";

On page 18, line 14, strike "\$28,829", and insert "\$28,860";

On page 19, line 8, strike "113.", and insert "112.";

On page 19, line 16, strike "114.", and insert "113.";

On page 19, line 18, strike "February 1", and insert "April 15";

On page 20, line 1, strike "115.", and insert "114.";

On page 20, line 6, strike "116.", and insert "115.";

On page 20, line 10, strike "117.", and insert "116.";

On page 20, line 14, strike "118.", and insert "117.";

On page 20, line 24, strike "119.", and insert "118.";

On page 21, line 6, strike "120.", and insert "119.";

On page 21, line 11, strike "121.", and insert "120.";

On page 21, line 14, strike "122.", and insert "121.";

On page 21, line 18, strike "123.", and insert "122.";

On page 21, line 23, strike "Virginia.", and insert the following: "Virginia, until the appropriate State agency has issued the required permits.";

On page 21, after line 23, insert the following:

"Sec. 123. Notwithstanding section 422(7) (D.C. Code, sec. 1-67(7)) and (D.C. Code, sec. 5-703(a)) the City Administrator and the board members of the Redevelopment Land Agency shall be paid at a rate established by the Mayor."

Mr. LEAHY. Mr. President, I compliment the distinguished Senator from New York, the chairman of the D.C. Appropriations Committee, for his fine handling of the myriad requests and needs of the District of Columbia.

I speak with some experience when I

say that it is not an easy job to be chairman of that subcommittee. I extend to the Senator from New York my congratulations for his fine work and my condolences for his assignment. He has handled it, however, with sensitivity, with integrity, and with competence.

By this legislation, the Senate again has demonstrated that, more and more, we are committed to the ideal of home rule and that less and less the Senate is trying to meddle in any kind of light fashion with the city. I believe that reflects credit on both the city and the U.S. Senate and reflects the realities of the day, the realities being that we have a city which long ago came of age.

So I join my distinguished colleague from New York in endorsing this measure, and I hope it will be passed.

Mr. DOMENICI. Mr. President, H.R. 4522, as reported by the Appropriations Committee, provides new budget authority of \$0.6 billion for fiscal year 1982.

The bill is consistent with both the D.C. Subcommittee's allocation under the first budget resolution and the President's September budget request. The bill is also consistent with the Omnibus Reconciliation Act provision limiting the amount authorized for loans to the District for capital projects to \$155 million. In addition, the bill places an outlay limitation of \$145 million on these loans, as requested by the President.

The bill provides \$37 million more than the House-passed bill for the Federal payment to the District. This is consistent with the increase in the authorized Federal payment ceiling enacted into law in August and the President's September request.

I commend Chairman D'AMATO and his subcommittee for the fiscal restraint reflected in this bill. It is the first appropriations bill to reach this floor that has been consistent with the President's latest budget request.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill to the congressional budget and President's budget request be printed in the RECORD.

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

District of Columbia Subcommittee		
[In billions of dollars]		
	FY 1982	
	BA	O
Outlays from prior-year budget authority and other actions completed.....	----	0.03
H.R. 4522, as reported in Senate.....	0.6	0.5
Possible later requirements:		
None.....	----	----
Total for District of Columbia Subcommittee	0.6	0.5
First budget resolution level.....	0.6	0.6
House level.....	0.5	0.5
President's March request.....	0.6	0.6
President's September request.....	0.6	0.5
District of Columbia Subcommittee compared to:		
First budget resolution level.....	----	-0.1
House level.....	+0.1	----
President's March request.....	----	-0.1
President's September request.....	----	----

Mr. D'AMATO. Mr. President, I have no requests for time, and I am prepared to yield back the remainder of my time, if the Senator from Vermont has no requests for time.

Mr. LEAHY. I have no requests.

Mr. MATTINGLY. Mr. President, will the Senator from New York yield 1 minute?

Mr. D'AMATO. I yield.

Mr. MATTINGLY. Mr. President, I commend the Senator from New York, the chairman of the D.C. Appropriations Subcommittee, for the outstanding job he has done, as has every other member of that committee, to keep the committee within the guidelines of the budget process.

Senator D'AMATO and I both chair committees that have kept the reduction within the guidelines of the Federal budget, and I have submitted some amendments to bills to cut them back to the proper levels.

The Senator from New York is to be highly commended, as is the entire committee, for having put forth a proposal that not only fits within the President's guidelines but also helps the taxpayers of America.

Mr. D'AMATO. I thank my colleague from Georgia.

Mr. President, I am prepared to yield back the remainder of my time, if there are no further requests.

Mr. LEAHY. There is none on this side.

To follow what Senator MATTINGLY has said, I note that this is now the fifth year in which the District of Columbia bill has come in not only within the budget but under the budget as well. I am glad to see that precedent being followed.

I yield back the remainder of my time.

Mr. D'AMATO. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. SIMPSON). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

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

So the bill (H.R. 4522) was passed.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

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

Mr. D'AMATO. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives thereon, and

that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. SIMPSON) appointed Mr. D'AMATO, Mr. HATFIELD, Mr. SPECTER, Mr. WEICKER, Mr. LEAHY, Mr. PROXMIER, and Mr. BUMPERS conferees on the part of the Senate.

DEPARTMENT OF AGRICULTURE AND RELATED AGENCIES APPROPRIATIONS, 1982

The PRESIDING OFFICER. Under the previous order, following disposition of H.R. 4522, the Senate will now resume consideration of H.R. 4119, the Department of Agriculture and related agencies appropriations for 1982, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 4119) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1982, and for other purposes.

The Senate resumed consideration of H.R. 4119.

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

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

Mr. LEAHY. Mr. President, the fiscal year 1982 Agriculture appropriations bill is explicit in its intent in regard to the special supplemental food program for women, infants, and children (WIC), the commodity supplemental food program (CSFP), and the food stamp program. I would like to emphasize what I think is already clearly expressed in the bill and its accompanying report.

WIC

As far as the WIC program is concerned, this bill provides sufficient funding to maintain a caseload of about 2.2 million persons, the participation level when the Reagan administration came into office. This is the approximate caseload that was supposed to have been maintained throughout fiscal year 1981. Unfortunately, because of threatened cutbacks by the administration and its failure to reallocate funding during the year, the caseload fell by about 200,000 persons nationwide. This should not have happened and the funding provided by this bill is intended to rectify that situation.

In the meantime, I am seriously concerned about the administration's management of the WIC program. So far, USDA has failed to put out the funds required under the continuing resolution to maintain the caseload in this program. Its failure to provide sufficient funds has already resulted in the suspension of benefits in one State for 12 days and the near shutdown of programs in several

other States. At best, USDA is now sending out mixed signals to the States as to what the funding level of the WIC program will be during the period of the continuing resolution and afterward. There is a substantial possibility that the WIC program is suffering additional injury at this very moment and that caseloads are again falling off.

Unfortunately, this is designed for women, infants, and children, for pregnant women and for postpartum women and while this should be obvious to OMB and to USDA there are no women in this country who can determine their time of delivery to fit with the schedule of OMB.

I mention that in the Chamber because while that is obvious to all of us in the Senate it certainly is not obvious to OMB and I would be glad to send them down pamphlets from various sex education courses or Planned Parenthood or whatever to point this to them because the WIC program is being operated in a manner contrary to the intent of Congress, but Congress has not had an opportunity to express its official disapproval since no deferral has been submitted even though privately and indirectly the deferral has been put in here.

That Congress strongly disapproves of the manner in which the WIC program is currently being operated is clear from a bipartisan letter sent to OMB Director Stockman on October 22, 1981. I ask unanimous consent that a copy of the letter be printed in the Record at this point.

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

COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, D.C., October 22, 1981.

HON. DAVID STOCKMAN,
Director, Office of Management and Budget,
Washington, D.C.

DEAR MR. STOCKMAN: We wish to express our urgent concern over the status of fiscal year 1982 funding for the Special Supplemental Feeding Program for Women, Infants, and Children (WIC). Failure to promptly provide funding appropriated under the Continuing Resolution (P.L. 97-51) has already resulted in the suspension of WIC benefits for 12 days in Delaware, and nearly closed programs down in several other States. We strongly urge you to immediately release the approximately \$140 million provided by Congress to operate the WIC program at current services for the duration of the Continuing Resolution.

Congress has repeatedly and clearly expressed its intention that the WIC program be funded to serve approximately the same number of persons in fiscal year 1982 as were served in fiscal year 1981. This position has been supported by broad bipartisan coalitions in Congress in the budget, appropriations, and authorization processes. The legislative history of the Continuing Resolution makes explicit the intent of Congress that the WIC program continue to operate without any reduction whatsoever in the caseload served in fiscal year 1981. The statement of the managers accompanying the conference report on the Continuing Resolution provides, in pertinent part, as follows:

"The conferees wish to stress that the Continuing Resolution maintains the current levels of participation for the Special Supplemental Food Program, known as "WIC", and the Commodity Supplemental Food Program (CSFP). Any efforts to reduce funding allocations to the states, thereby affecting levels of participation, would be clearly contrary to the provisions of this joint resolution."

According to USDA officials only \$50 million has been released thus far to the States to cover the period of the Continuing Resolution. We find this information most distressing. If not augmented quickly, this funding level will result in drastic reductions in the number of needy women, infants, and children being served nationwide. We have been told by responsible Federal officials that at least several, and possibly many, State programs can be expected to close down altogether if additional funding is not made available before the end of October.

We would stress that in determining the appropriate level of funding to be provided under the Continuing Resolution, the existence of carryover funds from fiscal year 1981 should not be considered as available to the States. USDA officials have repeatedly informed us that the exact whereabouts and levels of fiscal year 1981 carryover funds cannot be established at this time and will not be available until later in the fiscal year. As the experience in Delaware this month shows, carryover funds cannot be properly and promptly reprogrammed to avert shortfalls in funding that occur from State to State. An assumption that carryover funds are uniformly available in all States will likely lead again to funding crises in individual States.

WIC is an exceptional program that may well save more money in future health care costs than any potential savings generated by reductions in program expenditures. Congress has unequivocally expressed its complete support for the program. We urge you to assure that the WIC program is funded in a manner consistent with the intent of Congress.

Sincerely,

Walter D. Huddleston, Patrick Leahy,
Roger Jepsen, Joe Biden, Carl D. Perkins,
Bob Dole, Slade Gorton, Ernest F. Hollings, Thad Cochran, Ted Weiss,
George Miller, Dale E. Kildee, William D. Ford, Ike Andrews, Pat Williams,
William F. Goodling, Arlen Erdahl,
John Ashbrook, Lawrence J. DeNardis,
Larry E. Craig, James F. Jeffords.

Mr. LEAHY. The letter makes clear that the Congress intends the WIC program to be operated in fiscal year 1982 without a drop in the caseload served in fiscal year 1981. This can only be done if the administration manages this program responsibly by providing States immediately with an amount of funding that assures a maintenance of caseload. The stop and start operating instructions the States are now receiving from USDA simply do not allow a smooth and efficient management of this program. Benefits for tens of thousands of needy women, infants, and children have unnecessarily been put in jeopardy by the administration's uneven management of this program.

CSFP

H.R. 4119 provides \$30 million for the CSFP program. As in the WIC program,

this funding level requires, at a minimum, that the fiscal year 1981 caseload—about 115,000—will be maintained in fiscal year 1982. I am distressed that at least two CSFP programs that I am aware of have been directed by their States to cut caseload during the period of the continuing resolution. This should not be happening now and H.R. 4119 should assure that this does not happen later in the year.

FOOD STAMPS

This bill provides sufficient funding to assure that there will be no across-the-board benefit reductions in fiscal 1982 pursuant to section 18b of the Food Stamp Act. By providing \$10.3 billion for a 10½-month period only, Congress is clearly indicating that supplemental appropriations are expected in this fiscal year. At a minimum, no benefit reduction should occur before Congress has a chance to consider supplemental funding needs, currently expected to be about \$900 million.

In each of the past few years, Congress has acted late in the fiscal year to provide the funding necessary to avert across-the-board benefit reductions. Once again, the Secretary should not act to reduce benefits unless there is a clear indication from Congress that such reductions are warranted. At this point in time, we are sending the opposite message: No benefit reductions until we have had a chance to address this issue next year.

AMENDMENT NO. 620

(Purpose: To reduce by 2.6 per centum the funds appropriated in the bill for payments not required by law)

The PRESIDING OFFICER. Under the previous order, the pending question is amendment No. 620 of the Senator from Georgia, which the clerk will state.

The legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) proposes a printed amendment numbered 620.

At the appropriate place in the bill insert a new section as follows:

Sec. . The total funds appropriated or otherwise made available by this Act for payments not required by law shall be reduced by 2.6 per centum: *Provided*, That the amount appropriated or otherwise made available in this Act for each appropriation account, activity and project under which payments not required by law are made may not be reduced by more than 5 per centum.

Mr. MATTINGLY. Mr. President, on Tuesday of this week, I offered an amendment to the Interior appropriations bill which was calculated to save some \$380 million in an effort to move toward further fiscal responsibility. I am saddened that we did not meet that challenge and achieve the savings. As you will recall, I had proposed a mere 5-percent average reduction in a bill that was some 15 percent above our September target.

Undaunted, however, by my earlier disappointment, I rise again to offer my colleagues yet another opportunity to go on record in opposition to continued increases in Federal deficit spending. This amendment that I offer provides another

chance for us to chip away at inflation and high interest rates, another realistic proposal which will allow us to keep faith with the expectations and hopes of the American people.

I commend Senator COCHRAN and Senator EAGLETON who as chairman and ranking minority member respectively on the Agriculture Subcommittee have made truly remarkable progress toward meeting our goals in this bill.

It trimmed something like \$1.1 billion from the original appropriation. But even this tremendous effort by them has left us some \$512 million, just over one-half billion dollars, over our target. This figure represents about 2.6 percent of the approximately \$20 billion in discretionary funding, a far cry from the 15 percent which we faced in the Interior bill.

Yet I feel we have a real obligation to keep our commitment to the people by eliminating even this 2.6 percent, and by realizing a \$500 million savings.

My amendment simply provides that we lower funding of all discretionary accounts, activities, and projects, by the average of 2.6 percent.

It further provides that in reaching this 2.6 percent that no one account activity or project would be reduced by more than 6 percent. Mandated or entitlement programs, such as child nutrition, are exempted from any reduction. They will not be impacted whatsoever.

Thus the amendment provides some much needed flexibility in achieving the 2.6-percent average reduction while providing us with the means of reducing deficit spending by striking over one-half billion dollars.

As I said on Tuesday, we have made a lot of progress in our efforts, and we have indeed raised the hopes and expectations of our people, the American people. We have before us another chance to prove that we intend to do more than just talk a good game when it comes to the principles of fiscal restraint and budget reform.

I hope that we, as Members of the Senate, will adopt this amendment so that we can tell the people back home that we really are committed to fighting inflation and lowering the interest rate. I hope we can show the average citizen of this land that we have his best interests in mind and that we are truly dedicated to fiscal responsibility.

We have the means at hand, with the adoption of this amendment, to begin keeping our promises of a revitalized economy and increased opportunities for the men and women of America.

I urge my colleagues not to let this golden opportunity slip through our hands. Let us not snatch defeat from the jaws of victory in this effort to create a new beginning for our country.

I just briefly summarize that the amendment provides for a mere 2.6-percent average reduction, not an across-the-board reduction but just an average reduction, in discretionary budget authority, that not more than 6 percent be trimmed from any one activity or account.

It is time for us to face up to our responsibility, and it is time to be counted. I urge the adoption of this measure, and I call for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. MATTINGLY. Mr. President, 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. COCHRAN. 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. COCHRAN. Mr. President, I have a very high regard and warm personal friendship for the Senator from Georgia. In a very short time he has distinguished himself as one of the ablest of the new Members of the Senate, and has been a conscientious and effective Senator in working for implementation of the economic recovery program of our new President.

He and I share a concern that the Federal spending habits here in Washington have gotten out of hand, and that this new Government and this Senate have a mandate from the American people to change the way the Government has been operating in order to put the Government on a sounder fiscal basis, to get the budget under control, and to eliminate spending for wasteful and ineffective Government programs. For his efforts in assuring that this mandate is carried out, he should be congratulated.

I regret, therefore, that I have to oppose the amendment that is being offered, not because of the motivation behind it, because I think that is good and I applaud that motivation, but because of the fact that it might be implemented by the administration in a way that is not consistent with the intent of this Senate, nor of the Appropriations Committee in setting priorities and determining how best to approach the programs in terms of funding that are provided for in this legislation.

I remind the Senate that this bill was brought out by the Subcommittee on Agricultural Appropriations back in July at a time when we were able to reduce funding in this legislation to a level of \$600 million below the President's budget request.

Since that time there were new estimates made by CBO taking into consideration new economic conditions, and we had also the September request from the President for additional cutbacks in discretionary spending.

In response to the President's request, our subcommittee went back to the bill that it had completed work on in July and reduced the funding provided for in the legislation by an additional \$1.1 billion in budget authority.

In doing so, virtually every program and every account in this legislation was

scrutinized in a very careful and sensitive manner, Mr. President, to insure that those programs which provided essential services, nutrition assistance, and the like, to those members of our society who are not able to adequately provide for their own needs were protected, and that those essential services of the Department of Agriculture, the Food and Drug Administration, the regulatory responsibilities of the Commodity Futures Trading Commission, and other agencies would also be funded at levels that would permit them to continue to operate and help protect the safety and health of the citizens of the United States.

There are two or three other aspects of this amendment, Mr. President, which trouble the Senator from Mississippi, and which force me to oppose the amendment. One is the provision that States that exempted from this across-the-board 2.6 percent cut in funding are payments that are required by law. I would be curious to know if the Senator from Georgia could tell us what accounts in this legislation amount to payments that are required by law. There is a good deal of dispute and question, for instance, over child nutrition programs, school lunch programs, the women, infants, and children nutrition program, and the food stamp program, as to whether or not these programs would fall within the exemption that seems to be provided in the amendment of the Senator from Georgia. Maybe at the appropriate time or at this time the Senator could tell us what the intent of that language is. If it is an attempt to exempt those programs, then it would leave the Secretary of Agriculture with no choice but to impose what would amount to be the maximum cut mandated of 6 percent on all the other programs provided for in this legislation.

If it does not, then it gives the Secretary the authority to, without the requirement to, impose such a drastic cut on those programs that have just been mentioned, the nutrition programs and others.

(Mr. EAST assumed the chair.)

Mr. COCHRAN. These are the programs that have already been cut, Mr. President; funding at a level \$600 million below the President's request that was submitted in March, and then after the September budget requests an additional \$1.1 billion was cut from these programs.

I am convinced, after working with the other members of the subcommittee, that the funding levels provided in this bill are both restrained in response to the challenge the President has given us to hold down the cost of Government, but also sensitive to the needs of the poor and the elderly who depend on some of these programs that are funded in this bill for their very survival, and that to permit the unrestrained discretion to be given to the Secretary to make additional cuts of up to 6 percent in these individual accounts would be an act of

irresponsibility on the part of the Senate.

It would be like saying we ought not to even have a subcommittee on agricultural appropriations to assess, through a hearing process and review of these programs, where the money is needed the most; or where the money is being spent in an effective manner and where it is not. We would simply turn that responsibility over to the Secretary of Agriculture or the administration. That is what we are here for.

I do not think this responsibility ought to be shirked. We ought to meet that responsibility. And, in the judgment of the Senator from Mississippi, that has been done by the subcommittee and by the full committee after its careful review of this legislation.

Some might say, "Well, so what if we give the Secretary the authority? Where is he going to cut? It is up to him, he may not cut every program 6 percent."

Well, if some accounts are exempted because they amount to payments required by law or even if it does not require exemption of those accounts, the Secretary could, for instance, go in and cut the ASCS budget or account by 6 percent. That is presently an \$11.5 million program. That would be a cut of \$700,000, nearly a 15-percent reduction from the level provided last year.

There are people employed in that program in every county in every State providing technical assistance to farmers and administering the farm commodity programs. It would require dismissal of employees in all of these counties all over the country if such a cut were imposed. This program has already been cut.

Another example is the Farmers Home Administration, which is providing services, processing loan applications from farmers for disaster benefits and for operating loans. Senators may recall that we hear a great deal from those who have to make applications for these loans that the processing time is long and drawn out. And efforts have been made, I know, by the Agriculture Committee and other concerned Senators working individually, to try to impose upon the Department in that agency a sense of responsibility to move quicker in processing those loans. Of course, the difficulty is that there is a limitation on the number of people who can be paid at the funding levels that we have for Farmers Home Administration, and that is one of the problems in processing these loan applications.

But if a farmer cannot get his loan processed and get the proceeds in hand, he cannot plant his crop, he is out of business for the year. In the Farmers Home Administration account, if it is reduced by 6 percent, as this amendment would give the Secretary the authority to do, more than 700 county office workers who make and service loans to farmers and other rural citizens would have to be dismissed.

The Animal Plant Health Inspection Service is funded now at a level of \$270.5 million. This is the service that is charged with the responsibility of conducting programs to protect the animal and plant resources of the Nation from destructive pests and diseases. If this amendment is adopted, the authority given the Secretary would permit him to reduce that level of spending by \$16.2 million.

And how would that affect the operation of the service? A new wave of dismissal of employees would occur and the job that this Congress has given to that service and the mandate of the law could not be met.

Funded also in this legislation is the Agricultural Research Service, agricultural research in trying to improve the productivity of our agricultural sector. If this amendment were adopted, the Secretary would be given the authority to reduce the account for agricultural research by \$28.4 million, leaving in that account \$14 million less than was available last year. This involves also research on pesticide impact, pest control, human nutrition, and a wide range of important research activities that are underway now.

Mr. President, we have seen the problems that pests and diseases cause on animal and plant life. Included in this legislation are funds to help attack problems caused by such ominous creatures as fire ants—the Senator from Georgia certainly understands the complexity and difficulties presented by this pest. In the brucellosis program in the cattle industry, funding is made available to try to control this very damaging cattle disease that has plagued the whole country, but particularly the Southeast for decades. We are finally getting to the point where we can see the possibility of eradication and control. But a 6-percent reduction, which is permitted if this amendment is adopted, would mean \$5.4 million cut from that program, with no hope of reaching the point where we can see total control over that problem.

The Federal Crop Insurance program, of course, is in the experimental stage. It has just been put on the books to take the place of our disaster assistance program. A 6-percent reduction here would deny 70,000 farmers across America access to the Federal Crop Insurance program and absolutely destroy the effort that is being made to provide assistance from the Federal Government to those who have been hit by disasters on a sounder and more predictable basis than we had in the past. We would have to change that provision in the law that provides for disaster assistance payments to those who do not have access to the Federal Crop Insurance payment. That could even result in more expense to the Government in many instances.

So every budget cut that is recommended in this amendment across the board is not cost-effective. This committee has undertaken its responsibilities in a very careful and deliberate manner. It has been pointed out the savings that

have been achieved in an effort to support and help implement the economic recovery program.

To adopt this amendment, Mr. President, would certainly undo the careful work that has gone before by the members of this subcommittee and the full committee. It would be an abdication of responsibility by Members of the Senate to help set priorities, to help insure that the funding which is approved by this Congress is spent doing those things and helping meet those needs which are considered critical by the Members of Congress.

Mr. President, I hope the Senate will reject the amendment.

Mr. EAGLETON. Mr. President, I yield to the Senator from Georgia.

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

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

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I shall be brief. I make, in essence, three basic points:

Point 1, the Mattingly amendment abdicates the role of Congress in making decisions on how funding should be spent. If someone believes cuts should be made, I think it would be more appropriate that he suggest specific cuts to be made in the bill, be they in the agricultural research portion of the bill, soil conservation portion, the nutrition portion, or wherever. Then, of course, we could have a vote on the merits of the specifically targeted cut.

Point 2, the bill in its present form represents a total obligational authority of \$22.8 billion. That \$22.8 billion is already \$2.7 billion below the fiscal year 1981 funding level. It is important to emphasize that. The bill before us is \$2.7 billion below the 1981 actually appropriated level. That in and of itself is a cut of 10.6 percent.

The bill before us is also \$1.7 billion below the March Reagan budget, and over \$1 billion in budget authority below the level originally recommended by the subcommittee.

To make the picture complete, I guess the only negative figure is that the price of this bill, \$22.8 billion, is about a half billion dollars above what I would call the Reagan revised September budget proposals, which have not been embraced with any great warmth in this Chamber.

Point 3, the Senate considered this same type of amendment when working on the Interior bill on Tuesday of this week. That bill, which contained about \$7.4 billion in Federal funding, was \$1 billion over the President's requested September funding level, and that amendment was rejected by the Senate.

So, Mr. President, I think by every rational analysis the spending in this bill is tempered and reasonable. I repeat once again that if there are specific programs that the distinguished Senator from Georgia thinks are overfunded, he would be better served, and the Senate as a whole would be better served, if he would

offer specifically targeted amendments to those line items that he finds either wasteful or excessive. We could then vote on those amendments one by one, and we could debate the policy implications of such cuts as he may propose.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. I thank the distinguished Senator from Missouri for his comments.

Let me clarify a couple of points.

One, in saying that the bill is not over by too much, the OMB figures, which are lying on every Senator's desk, show that the bill is higher than the administration's separate request by over \$1 billion in budget authority and \$1.1 billion in outlays. I just wanted to clarify that point.

There is something else which I think ought to be brought up. Everybody has been watching television, reading newspapers, and listening to radios with reference to the policies pursued by the Congress for several decades. I feel like the President's program, the program supported here in the U.S. Senate, is a policy mix of helping to cure inflation and limiting the price increases.

Though I believe that the new policies are going to succeed, it will be, if they do not succeed, because Congress has not brought the budget under control.

Polls already show that over 60 percent of the people of our country favor giving the President the right he has requested to veto budget items line by line. Congress is going to fight every inch of the way against giving the President that power, saying that it will curtail its own.

The comment that we are taking some authority away from a committee does not have to happen because we do not have to give the President the opportunity to veto if we do the job.

The President could take his case to the people, as he has several times. A full court press on the item veto would be a precise and effective way to pick up the challenge of the big spenders in the Congress. I do not believe the President can let the challenge go unanswered, nor would the American people want that to happen.

I can understand 2 or 3 days ago when I offered the amendment to cut 5 percent from the Interior bill that that seemed like a high figure to some people. But to look at 2.6 percent I think it is a joke that they would say this would destroy programs, 2.6 percent. That is a real figure, and we are talking about zero impact on some programs.

Of course, examples can be brought out saying that a 6-percent cut in something might be cutting something that should not have a 6-percent cut. This does give the latitude of zero to 6 percent in those programs.

We are not impacting the nondiscretionary programs but only the discretionary programs, which are almost \$20 billion out of the total agricultural bill.

I think the American people want to know at what point the Congress does not flinch any more. Is 2.6 percent that

point? Or is it going to be 1.6 percent? Where is it?

Today they are going to get a test. We are going to see if 2.6 is the infinitesimal percentage where no one will be hurt but a lot of people will be helped because 2.6 percent is not a smoke screen. The 2.6 percent is a small amount that will really make the agricultural bill a better bill and prevent it from the possible opportunity of being vetoed.

Mr. COCHRAN. Mr. President, I do not know of any other Senators who wish to be heard on the amendment. I think the discussion we have had up to this point has provided the Senate with information about the effect the amendment would have in a practical way on some essential and important programs funded in the legislation. The Senator from Missouri has outlined so well how the committee has brought to the floor a bill that is about \$2.6 billion less than the funding level for all of these programs last year—this fiscal year. The committee has worked very hard to identify those programs and accounts where savings could be made without jeopardizing needed services or benefits that are included in the legislation. If there are additional savings that can be made in any of these accounts, of course, the bill is open for amendment at any point.

However, an across-the-board swipe at the whole array of programs that are provided for in this legislation absolutely abrogates the responsibility this body has to help determine spending priorities and where the Federal Government assistance ought to be placed, where emphasis should be placed to determine which programs are being ineffectively administered and can be reduced in cost, as the committee has done. Virtually every program and every account in this bill has been reduced to some extent or another below prior funding levels.

The Senator could, of course, offer suggestions in the form of amendments on any individual account and let the Senate work its will on whether or not there has been a sufficient cut made or a reduction made in the school lunch program, for example. The Senator may have seen, across the country, programs that are being shut down because of inadequate funding that is available to continue them in operation and the cost per student for school lunches having to be increased all over the country.

These are decisions that are having to be made because of reductions that have already occurred. To come in now and give the Secretary the authority to impose a 6-percent cut in the school lunch program would wreak havoc on the efforts being made at the local level to provide lunches in the schools of this country. There are many other examples that have already been indicated, Mr. President, and it is not the intention of the Senator from Mississippi to prolong the debate.

When I served in the other body, there was always a Representative who would

offer an amendment on every appropriations bill just before passage, cutting 5 percent across the board. It played well back in his home State, sounded good when he was on the floor. But when we really got down to seeing what would be done, most Members decided that it was not appropriate to turn to the administration and say, "We are going to cut the bottom-line number by a certain percent and let you identify the programs to be cut even further than the Congress has cut it."

I am prepared, Mr. President, to yield back the remainder of my time and go to a vote on the amendment if the Senator from Georgia is ready.

Mr. MATTINGLY. Mr. President, there is one more Senator (Mr. HELMS) who would like to speak on the amendment. He is chairman of the Committee on Agriculture, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. 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. HELMS. Mr. President, I commend the able Senator from Georgia on his amendment. He is a distinguished member of the Appropriations Committee, and he is known for his sound judgment in economic matters and others.

Mr. President, it seems to me that the question before us is whether we are going to support the President's most recent budget figures or support the much higher spending proposal reported by the Senate Appropriations Committee.

I have the highest respect for our able colleagues on the Appropriations Committee. I think they know that. But I must say that I am a bit disappointed that the committee decided, in its wisdom, to exceed the President's latest budget request and exceed it by something like a half-billion dollars, if my arithmetic is correct. Mr. President, if the Mattingly amendment is not approved by the Senate, I cannot support this bill.

It is my information that the distinguished committee even tacked on additional spending over and above the amounts passed by the House of Representatives. The House bill itself was already higher than the request by the President on September 24.

Having said all that, Mr. President, I want to make it clear that many of the programs which may be slightly reduced as a result of Senator MATTINGLY's amendment are programs which I favor. However, I believe that our overriding concern today must be to reduce, at every possible point, spending by the Federal Government.

If we are to stay on course with the President's program for economic growth and reduced Federal spending, we simply must make significant reductions in Federal spending because the alternative is an invitation to exacerbate the economic difficulties we are now

experiencing and which are themselves the result of years of unrestrained spending by the Federal Government, which in turn produced a trillion dollar debt that the taxpayers of this country are shouldering today.

Never a day passes that one or more delegations from my State come to me and say, "We must do something about this economy."

I say, "Fine. What do you suggest?"

I receive all sorts of suggestions, but, generally speaking, most citizens realize that unless there is a reduction in Federal spending sufficient to send a clear signal that we are truly headed toward a balanced budget, the interest rates are not going to come down.

And unless the interest rates come down, we are not going to get this country moving again. Unless we get the country moving again, productivity is going to remain at a very low level, and unemployment will continue to rise. So we have an economic situation in which the dog is chasing its tail.

There is no easy way, no instant way out of the economic dilemma that this Government faces and, consequently, the American people face.

We simply must reduce Federal spending and the only way to do it is to bite the bullet and vote to cut Federal spending all along the line. Otherwise, there is no hope that I can see for getting this Nation stabilized.

For that reason, Mr. President, I would reiterate that unless the Mattingly Amendment is approved, I cannot in good conscience vote for this bill on final passage. I may be the only Senator to take this position. I may be misunderstood, but if we are serious about cutting Federal spending and balancing the Federal budget, we must be prepared to cast the difficult votes necessary to achieve and maintain economic stability.

The across-the-board reduction proposed in and by the amendment of the distinguished Senator from Georgia will allow the Secretary of Agriculture to determine the exact distribution of this reduction in appropriations. As I understand his amendment he is exempting the entitlement programs. The ceiling on individual cuts within specific accounts, projects, or activities will guarantee that no program will suffer a disproportionate share of the reductions to be made.

It should be noted that this approach reduces the actual appropriations to the Department of Agriculture to stay within the budget request of September 24. Unlike previous, similar across-the-board proposals, the reduction in appropriations as contemplated by Senator MATTINGLY is not held in reserve but rather withheld altogether from the Department.

I ask the Senator if this is not correct?

Mr. MATTINGLY. The Senator is correct.

Mr. HELMS. I thank the Senator.

Mr. President, I support the amendment, and I commend the distinguished Senator from Georgia for offering it.

Mr. COCHRAN. Mr. President, I know of no other Senators who want to be heard on the amendment and this Senator is prepared to go to a vote.

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

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

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Oklahoma (Mr. NICKLES), the Senator from New Mexico (Mr. SCHMITT), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea," and, I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

Mr. CRANSTON. I announce that the Senator from New Jersey (Mr. BRADLEY), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PELL), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Montana (Mr. MELCHER) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PELL) is paired with the Senator from Washington (Mr. JACKSON).

If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Washington would vote "nay."

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

The result was announced—yeas 32, nays 51, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—32

Armstrong	East	Moynihan
Baker	Garn	Murkowski
Bentsen	Gorton	Percy
Boschwitz	Havakawa	Proxmire
Byrd	Helms	Quayle
Harry F., Jr.	Humphrey	Roth
Cannon	Kasten	Simpson
D'Amato	Lavalt	Symms
Denforth	Lugar	Tower
DeConcini	Mattinelly	Tsongas
Denton	McClure	Warner

NAYS—51

Abdnor	Evon	Matsunaga
Andrews	Ford	Metzenbaum
Baucus	Glenn	Mitchell
Biden	Grassley	Numm
Boren	Hart	Packwood
Burns	Hawkins	Pressler
Burdick	Heflin	Pryor
Chafee	Heinz	Randolph
Chiles	Huddleston	Riegle
Cochran	Inouye	Rudman
Cohen	Jensen	Sarbanes
Cranston	Johnston	Sasser
Dixon	Kassebaum	Specter
Dodd	Kennedy	Stafford
Domenici	Leahy	Stennis
Durenberger	Levin	Stevens
Eagleton	Long	Williams

NOT VOTING—17

Bradley	Hollings	Schmitt
Bvrd, Robert C.	Jackson	Thurmond
Dole	Mathias	Wallop
Go. dwater	Melcher	Weicker
Hatch	Nickles	Zorinsky
Hatfield	Pell	

So Mr. MATTINGLY's amendment (No. 620) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I cannot tell you how pleased I was to see the Senate act responsibly in turning down what I thought was a most unreasonable amendment just offered.

I am somewhat distressed, though, when I recognize that the vote was as close as it was. It seems to me, Mr. President, that the U.S. Senate as a total group may not be getting the message.

Mr. President, I would like to quote from two stories that appeared in the Lincoln Star on October 12 of this year. The first item is headlined "Farm Parity Ratio Falls to the Lowest Point in 48 Years."

The farm parity ratio fell to its lowest point in 48 years in September. The index by which farmers measure their income and buying power against their prosperity in the "good old days" of 1910 to 1914 stood at its lowest point since April 1933, in the height of the Great Depression.

Likewise, on the same page of the same newspaper of the same date, under the headline, "Beef Processor Says Cattle Industry Faces Darkest Days, Changes."

There are some dark days ahead for the cattle industry, according to Gerald "Bud" Pearson, retiring head of the Spencer Beef Division of Land O'Lakes Inc.

Pearson said in an interview that many segments of the cattle industry will experience losses in five of the seven years between 1979 and 1985.

Mr. President, still another story printed in the Friday, October 30, New York Times by Seth S. King. The headline, "Recession Hitting Town in Nebraska, Farm Price Drop, Interest Rise and Federal Aid Cut Mean Job Layoffs in Beatrice."

BEATRICE, NEB.—This normally prosperous town of 13,000, depending for its well-being on a cluster of small industries and the skilled farmers in this southeastern corner of Nebraska, is already feeling the dual pressures of Federal budget cuts and a recession that began here three months ago.

On down in the story, it says what rank and file people in Nebraska are saying louder and clearer today than they have ever said before. The subheadline, Mr. President, I think highlights this: "Cut Taxes Too Much."

"The President cut taxes too much," he said. "For the average guy whose working here, it's minimal. It's not going to do us any good here for a long time and it's delaying getting that deficit down."

Mr. President, at the conclusion of my

remarks, I ask unanimous consent that the three newspaper stories that I have referred to be printed in the RECORD in the order that I addressed them.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. EXON. Mr. President, I hope we realize and recognize that, generally speaking, a meat ax approach to the difficulties that we have with the Federal budget simply will not work. I think we all know and recognize that if we are going to get the economy of the United States of America back on track once again, we are going to have to do it with a twofold approach.

First, Mr. President, we are going to have to make additional reductions in spending. I think that is a for gone conclusion, and I suspect that overwhelmingly the Members of this body support that concept.

But, Mr. President, we are also going to have to do something else. We are going to have to at least make some changes in the massive tax cut that was enacted by this body at the recommendation of the President of the United States a few short weeks ago.

We seem to be forgetting, Mr. President, that in balancing a budget you have to look at two sides: You have to look at the expenditure side, naturally, but you also have to look at the income side of the budget.

If it is true, as I think it is, we are never going to get the economy back on track, we are never going to have a chance of licking inflation, and we are certainly not going to see any long-range, significant drop in long-term interest rates until we have a chance of balancing the Federal budget at a time certain.

Therefore, Mr. President, I hope that as we continue to discuss the farm bill that has already been emasculated, we will reject any further attempts to make reductions, as we have with the vote just taken.

Mr. President, I thank the Chair and I yield the floor.

BEEF PROCESSOR SAYS CATTLE INDUSTRY
FACES DARK DAYS, CHANGES

(By Ann Toner)

There are some dark days ahead for the cattle industry, according to Gerald "Bud" Pearson, retiring head of the Spencer Beef Division of Land O'Lakes Inc.

Pearson said in an interview that many segments of the cattle industry will experience losses in five of the seven years between 1979 and 1985.

The cattle industry has traditionally had ups and downs, but never before has it experienced such an extended period of unprofitability, he said. Rather than sitting back and hoping that the next year will be better, Pearson believes all segments of the beef cattle industry should be figuring out how to cope with declining beef industry and the problems of a mature or aging rather than a growing industry.

High interest rates and inflation are the twin nooses around the cattle industry's neck, he said. Continuing losses in the cattle industry have caused many cattlemen to deplete their reserve capital, leading to an

unprecedented amount of borrowing, and at record or near record interest rates.

While land values have increased enough for most cattlemen to maintain their net worth, and provide a base for borrowing, the total interest cost of raising a steer from conception to consumption is too much for the beef producer to absorb and still produce beef at a profit, Pearson said. Assuming that a commercial beef cow is worth \$700, the producer could have as much as \$150 in interest charges invested in the production of a calf from the time the cow is bred until the calf is weaned from the cow.

The feedlot operator or farmer feeder who buys a calf after weaning and raises it to slaughter weight pays as much as another \$100 in interest costs, he said. This includes the cost of the calf and a portion of the feed cost, bringing the interest charges against a beef steer to \$250 or about 20 cents a pound live weight. That translates to 35 cents per pound of carcass weight, and 40-70 cents per pound of retail cut.

Adding to beef industry woes is the state of the economy. Inflation and interest rates are cutting into the amount of discretionary dollars consumers have to spend—that's the money consumers have left over after they pay for the necessities, Pearson said.

Consumers used to spend 26 percent of their discretionary dollars buying beef, but they have recently cut their purchases back to 2.2 percent. Each 10th of a percent reduction in disposable income spent for beef means \$3 per hundredweight less in demand to those who raised and fed that beef, he said.

Consumers say they are buying less beef, but that isn't quite true because they continue to consume all of the beef offered for sale in this country, Pearson said. Because of the cows on farms and ranches and the cattle in the beef pipeline, consumers will actually be eating more beef in the next three years than they have in the past three years, he said. The catch is the price at which consumers will be willing to buy beef. If prices remain unprofitable, the cattle industry will eventually cut their production in the future, he predicted.

If the beef industry remains unprofitable, Pearson said millions of acres of grassland could be plowed up and converted to marginal cropland. The cultivation of such highly erodible land could, in turn, render that land unproductive in 50 years through the erosion of topsoil. "The cow is a good converter of solar energy," said Pearson. "She harvests grass like a combine harvests grain."

In order for beef to regain its lost prestige and popularity with consumers, Pearson believes the industry must become more responsive to their demand for lean, palatable beef at a reasonable price. This means breeding more uniformity into beef animals to produce a longer, leaner carcass on less grain. Proposed changes in beef grades would encourage leaner choice-grading carcasses, he said.

But Pearson is also a firm believer in beef promotion. The cattle industry needs to sell consumers on the nutritional values of its products, as the pork and poultry industries have done, he said. He suggests the best way to do it is to capture a little of the romance and glamour of cowboys interwoven with the beef industry and sell that along with the steaks, roasts and hamburger.

"Beef carries the rest of the meat counter in most supermarkets," he said. "We need to work more closely with the chain stores on selling beef. If sales continue to shrink, it has to hurt them too. A healthy beef industry is in the best interests of all."

FARM PARITY RATIO FALLS TO LOWEST POINT IN 48 YEARS

(By Ann Toner)

The farm parity ratio fell to its lowest point in 48 years in September. The index by which farmers measure their income and buying power against their prosperity in the "good old days" of 1910 to 1914 stood at its lowest point since April 1933, in the height of the Great Depression.

Parity hasn't been over 100 percent of the 1910-14 base years since August 1973, when it indexed above 100 for the first time since the Korean War. The index hasn't been above the 80-mark since 1974, and was last in the 70s since 1979.

This most recent drop in parity has been attributed to lower prices for corn, cattle, soybeans, potatoes and oranges. Higher prices for milk, eggs, peaches, tobacco and apples weren't enough to offset the figures and prevent the decline. None of the common agricultural crops or livestock figured into the index sold for 100 percent to parity.

Lemons were close at 98 percent of parity, but corn was 51 percent and soybeans were 50 percent of parity. But if you think that's bad, consider the plight of the lime producer who received 22 percent of parity—up from 1 percent of parity the previous month.

There's an interesting development on the meat import-export front. Imports of beef into the United States in 1981 are expected to be down 13 percent from last year to total about 1.2 billion pounds.

At the beginning of the year, USDA estimates had beef imports pegged at 1.46 billion pounds, but the estimate has been lowered each quarter as imports have come in under estimate. Shipments from the United States' biggest foreign beef supplier, Australia, were disrupted in recent months, in the flap over possible adulteration of the beef with horse or kangaroo meat.

The United States imports about 7 percent of the beef it consumes. Most of the imported beef is lean, grass-fed beef that is usually ground into hamburger or processed into other ground meat products.

U.S. meat exports are up substantially for at least the first seven months of 1981—a whopping 83 percent in tonnage and 41 percent increase in the dollar value.

During that period some 353.7 million pounds of red meat were exported, according to the U.S. Meat Export Federation. This includes 192.5 million pounds of beef worth an estimated \$169.6 million; a 157 percent increase in volume; and 142.9 million pounds of pork worth \$175.4 million.

Major beef importers included Greece, 100 million pounds, up 33 percent; Japan, 51 million pounds, up 22 percent; Canada, 10.5 million pounds, up 92 percent; the Bahamas, 3.7 million pounds, down 14 percent; and Mexico, 2.4 million pounds, up 69 percent.

Pork exports are up 33 percent in volume and 68 percent in dollar value. Major importers include Japan, 72.2 million pounds, up 99 percent; Mexico, 18.9 million pounds, up 41 percent; Canada, 15.3 million pounds, down 7 percent; Dominican Republic, 10 million pounds, up 133 percent; and Venezuela, 4.9 million pounds, up 11 percent.

The United States also exported 271 million pounds of variety meats.

NEBRASKA PLANS TO EXTEND AG COMPUTER CAPABILITIES

Nebraska soon will be able to extend its agricultural computer capabilities through access to the new North Central Computer Institute in Madison, Wis.

"The use of the North Central Computer Institute will extend the use of AGNET by

sharing computer programs and undertaking projects which previously have been too costly for a single state to accomplish," Ken Bolen, assistant director of the Cooperative Extension Service at the University of Nebraska, said.

Nebraska has been one of the leading states in computer networks since the development of AGNET, the agricultural computer network that originated in Nebraska and serves all Nebraska counties.

The computer institute, expected to be in full operation early next year, will relate directly to the needs of land grant universities as they conduct research, extension and teaching activities. Software development and standards for software will be important objectives of the institute which will be beneficial to farmers and ranchers. The institute also will provide newsletters and service training opportunities for staff development.

[From the New York Times, Oct. 20, 1981]

RECESSION HITTING TOWN IN NEBRASKA

(By Seth S. King)

BEATRICE, Neb.—This normally prosperous town of 13,000, depending for its well-being on a cluster of small industries and the skilled farmers in this southeastern corner of Nebraska, is already feeling the dual pressures of Federal budget cuts and a recession that began here three months ago.

Beatrice officials, now facing a loss of some or all of its Federal revenue sharing money as well as the Federal funds they depend on for special education programs, can see no immediate way to replace this income.

Falling farm prices combined with rising interest rates have stopped housing construction and sales as well as the sale of almost all retail items except food and clothing.

Although two small nonfarm industries in Beatrice are still producing at a normal pace, the town's other two major employers, which make farm equipment, are either laying off workers or reducing shifts.

What is happening in Beatrice is being repeated in scores of other small communities in the corn and wheat belts of the Middle West where the economy is largely based on sales to the nearby farmers.

LAST TWO RECESSIONS NO PROBLEM

These communities escaped the last two recessions because farm prices were unusually high and spending by farmers was uninhibited.

Larry D. McKee, president of the Beatrice Glass Company and the town's Mayor, said recently, "The recession of 1974 and 75 and even the little one the economists said we had last year, just didn't get to Beatrice. "But we're really feeling this one already.

Our people, a third of them depending on local payrolls, are really being squeezed in the pocketbook. So is the city government, with what you'd have to say are modest but, for us, real painful cuts in Federal money."

Even so, Mr. McKee said, most Beatrice residents would agree with him that these Federal budget reductions were needed and long overdue.

"I think the President had to cut our social programs," he said. "We were much too dependent on them, and we know that the only way those crippling interest rates will come down is to cut the Federal deficit."

The thing that is troubling him most, Mr. McKee said, is his doubt that Mr. Reagan or anyone else can get the economy turned around in a reasonable time.

CUT TAXES TOO MUCH, HE SAYS

"The President cut taxes too much," he said. "For the average guy whose working here, it's minimal. It's not going to do us

any good here for a long time and it's delaying getting that deficit down."

Beatrice functioned last year with \$123,000 in Federal revenue sharing money. This year, before the Reagan budget-cutters began eyeing the revenue sharing program, the city was expecting \$135,000. Now city leaders are uncertain about how much, if any, of this they will get. The community is still using \$800,000 in Federal housing funds to rehabilitate substandard housing, but officials do not know whether they will get the rest of their Federal allocation to complete this program. New cuts in Federal education funds have resulted in the dismissal of several teachers and a sharp cutback in school lunches.

Welfare officials in Gage County (population 22,000, including Beatrice) have just terminated the cases of 25 families of their 170 receiving Aid to Families of Dependent Children, because the heads of the families were earning too much under the new regulations.

While the loss of \$120,000 might not seem much, Mr. McKee said, it would hit Beatrice particularly hard because the city government had been using these funds to cover operating expenses.

"The problem we have is that there is no immediate way to replace that money ourselves," he said.

STATE LAW LIMITS TAX RISE

Beatrice, like other towns of its size in Nebraska, is limited by state law to a 7 percent annual rise in revenue from property taxes. The town gets some funds for education from the state. But Nebraska's income tax is based on 15 percent of the Federal taxes Nebraskans pay. So state revenues will also be reduced by the Federal tax cut.

This, officials said, leaves the town facing the possibility of having to make further cuts in its small police and firefighting forces and putting off some maintenance programs.

But the town's most pressing needs are a rise in farm prices and lower interest rates to perk up business, according to Harold Deltmeyer, president of the First National Bank of Beatrice.

"People's income just isn't keeping up with inflation," he said. "We basically depend on how well the farmers are doing and how much they are buying from Beatrice merchants. When you add those high interest rates to a big drop in farm income, you see real estate dying, retail sales slowing down, and the big items, like automobiles and farm implements, stop dead."

Mr. Deltmeyer said he believed there was still a basic strength in the local economy and that Beatrice would somehow manage.

"I'm a great believer in Reagan's philosophy and in what he's tried to do," he said. "We know things can't be turned around overnight. We just hope it won't take too long."

But if Mr. Reagan cannot persuade Congress to reduce social programs farther, Mr. Deltmeyer said, then he should seek some more "flexibility" in taxing.

"I think there are other places he can go, like higher excise taxes and I wouldn't want to postpone the July 1 cut in income taxes," he said. "And while people here want a strong defense, a lot of us think that if there's no other way to cut the Federal debt, then the President should cut back on defense spending."

Mr. McKee said that he believed Beatrice, and other small towns like it, could weather the current slowdown without too much pain if it did not last too long.

"Our people say they are ready to do with

less if it means knocking inflation and getting the economy going again," he said. "But I'm not sure they'll still feel that way when there really is less, as it looks like there will be."

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 551

(Purpose: To require that not less than \$31,900,000 of the funds appropriated for the Foreign Agricultural Service be used for market development in foreign countries)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS), for himself, Mr. BENTSEN, Mr. HAYAKAWA, and Mr. LEAHY, proposes an unprinted amendment numbered 551.

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

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

The amendment is as follows:

On page 47, line 16, strike out the period and insert in lieu thereof a colon and the following: "Provided further, That not less than \$31,900,000 of the funds contained in this appropriation shall be used for the purpose of market development in foreign countries."

THE FOREIGN AGRICULTURE SERVICE

Mr. BAUCUS, Mr. President, I originally intended to offer an amendment which would have increased the Foreign Agricultural Service (FAS) budget by \$4,363,000. My intention was to restore the funding of FAS to the level originally proposed by the administration and recommended by the Agriculture Appropriations Subcommittee prior to the latest round of budget revisions.

This \$4,363,000 would also bring the FAS budget into line with the figure that has already been approved in the House.

I am a strong believer in the importance of agricultural exports. By improving the already sterling record of agricultural trade surpluses, we benefit our farmers through higher and more stable market prices, and we benefit our balance of trade and our economy generally.

I, therefore, am most interested in the market development portion of the FAS budget. Without losing sight of my intention to increase the total FAS budget, I shall modify my original amendment.

Mr. President, the amendment at the desk simply directs FAS to fund export market development at a minimum of \$31.9 million. This is only \$800,000 above the level in the present Senate bill and would add no additional funds to the total FAS budget.

I am troubled by the discrepancy between the House and Senate versions of the FAS budget and hope that the conference committee will give every consideration to the importance of agricultural exports and the role of FAS in promoting these exports.

The money we appropriate for FAS is one of the wisest investments the Federal Government makes. The mission of the Foreign Agricultural Service is to help American agriculture by maintaining and expanding foreign markets for agricultural products—exports which are vital to the U.S. economy.

Last year alone, agricultural exports totaled over \$40 billion, with a surplus trade balance of over \$23 billion. In fiscal year 1981, these totals are forecast at \$47 billion and \$29 billion, respectively. Yet, the investment the Federal Government makes in market development is only about one-tenth of 1 percent of the total of our agricultural exports.

Mr. President, I ask unanimous consent that the following table showing the levels of agricultural exports and market development expenditures of principal competing countries be printed into the RECORD at this time.

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

EXHIBIT V

AGRICULTURAL EXPORTS AND MARKET DEVELOPMENT EXPENDITURES OF PRINCIPAL COMPETING COUNTRIES,¹ FISCAL YEARS 1977-79

Country	Fiscal year 1977			Revised fiscal year 1978			Estimated fiscal year 1979		
	Exports (billions)	Market development (millions)	Percent of exports	Exports (billions)	Market development (millions)	Percent of exports	Exports (billions)	Market development (millions)	Percent of exports
Australia ²	\$5.7	\$42.1	0.74	\$5.9	\$54.1	0.92	\$6.6	\$65.4	0.99
Canada ²	4.2	7.8	.19	4.5	6.4	.14	5.3	5.5	.10
Denmark ³	2.6	15.7	.60	3.4	23.1	.68	3.9	26.6	.68
France ⁴	9.6	16.5	.17	12.6	17.0	.13	15.6	18.0	.12
Israel ⁵	.53	8.5	1.60	.58	6.5	1.12	.78	7.2	.92
Netherlands ^{1,2}	10.9	26.9	.25	13.5	31.4	.23	14.9	37.2	.25
New Zealand	2.5	17.2	.69	2.7	25.2	.93	3.0	27.8	.93
South Africa ³	1.5	2.4	.83	1.8	13.7	.76	1.7	14.8	.87
Total	37.5	147.1	.39	45.0	177.4	.39	51.8	202.5	.39
United States ⁴	24.0	25.1	.10	27.3	30.0	.11	32.0	34.2	.11

¹ Exchange rate sources are: Treasury Reporting Rates of Exchange, Department of the Treasury Fiscal Service, Bureau of Government Financial Operations, the June or December quarter.

² July-June year.

³ Export data based on calendar year, market development expenditures on fiscal year.

⁴ Data based on calendar year.

⁵ Information from Embassy.

⁶ Includes Foreign Agricultural Service funds and contributions of U.S. market development cooperators.

Source: USDA/FAS/Program Planning and Evaluation.

Mr. BAUCUS, Mr. President, this table shows how the U.S. expenditures for developing our export markets compare with those of Australia, Denmark, the Netherlands, New Zealand, and other competing countries. Australia invests almost 1 percent of their total agricultural dollar exports to market development. New Zealand invests 0.93 percent and Denmark about 0.68 percent.

The United States spends only about 0.11 percent of our total agricultural exports on market development. I do not think we can afford to lag behind on an area like this—that is so important to the health of our agricultural sector, our balance of trade, and our economy generally.

Look at agricultural exports from another perspective. Domestic prices to our farmers are so low—so far behind the increasing costs of production—that many farmers are hard pressed to continue their operations.

Over 28,000 farms went out of business between 1977 and 1981. The trend is not improving. There is only one bright spot in our agricultural outlook—and that is expanded agricultural exports.

During the Senate's consideration of the farm bill, the overriding concern was the budget—not America's farmers. At every step along the way, support prices were decreased to meet budget considerations.

The administration and Congress then

made a promise to farmers to aggressively pursue the expansion of export markets. I certainly cannot see where cutting the FAS budget is following up on that commitment. I know we are failing to take advantage of a golden investment opportunity.

I think it is important to understand how the export promotion program under FAS works. The program has been cited as a model export promotion program. It provides a unique example of profitable cooperation between Government and the private sector.

Literally every commodity and livestock group participates in the program. Market development money from FAS is matched by private money from these agricultural groups.

Among the cooperators are: Cotton Council International, American Soybean Council, U.S. Wheat Associates, U.S. Rice Council, U.S. Feed Grains Council, U.S. Meat Export Federation, California Almond Growers, California Cling Peaches, Florida Department of Citrus, and the National Forest Products Association.

I ask unanimous consent that the following complete list of cooperators be printed in my statement at this point.

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

American Angus Association, American Brahman Breeders Association, American Hereford Association, American International Charolais Association, American Polled Hereford Association, American Quarter Horse Association, American Seed Trade Association, Inc., American Soybean Association, Appaloosa Horse Club, Inc., Brown Swiss Cattle Breeders Association, Inc.

California Almond Growers Exchange, California Avocado Commission, California Cling Peach Advisory Board, California Table Grape Commission, Cotton Council International, Dairy Society International, D-N-E Sales, Inc.

Eastern U.S. Agricultural & Food Export Council, Inc., EMBA Mink Breeders Association, Holstein-Friesian Association of America, Indian River Citrus Sales, Inc., International Brangus Breeders Association, Inc., Millers' National Federation, Mohair Council of America.

National Association of Animal Breeders, National Association of Swine Records, National Forest Products Association, National Peanut Council, National Potato Promotion Board, National Renderers Association, Inc., Northwest Horticultural Council, Ocean Spray Cranberries, Inc.

Papaya Administrative Committee, Poultry and Egg Institute of America, Protein Grain Products International, Puregold, Inc., Rice Council for Market Development, Rio Del Mar Foods, Inc., San Benito Vineyards, Santa Gertrudis Breeders International, Seald-Sweet Growers, Inc., Sunkist Growers, Inc.

Southern United States Trade Association, Tanners' Council of America, Inc., Tobacco Associates, Inc., U.S. Feed Grains Council, U.S. Meat Export Federation, U.S. Wheat Associates, Inc.

Mr. BAUCUS. Mr. President, in spite of the achievements of this program, funding has not kept up with inflation and increased program costs in recent years. The original administration request for an \$8.9 million addition to the FAS budget—including \$3.2 million for market development—would have merely covered the cost of inflation. There would be no expansion of the market development program.

Without additional funding, no significant effort can be made to increase markets in developing countries, or develop the potential new markets in the Third World. New markets exist in China and Africa, for example, that we should be taking advantage of. I am particularly interested in seeing the completion of plans for a model bakery, an instant noodle plant and a pilot flour mill that are being developed in the People's Republic of China. A very small contribution is required from the FAS for this cooperative effort with the Chinese Government and U.S. Wheat Associates.

I want to reemphasize that my amendment does not increase the budget of the FAS. I understand the fiscal constraints that face the Appropriations Committee. But, personally, I believe that an expanded market development program would be a wise investment, and a revenue producer.

I said earlier that we have to make up for a deficient farm bill. The Senator from Nebraska was correct in pointing out that the farm bill recently adopted by the Senate is inadequate in many ways. We must allow farmers to make up lost ground by pushing for exports so farmers can get a better price and also be able to sell more bushels of wheat, bushels of feed grains, and more pounds of livestock overseas.

Mr. President, I understand the amendment is acceptable to the distinguished Senator from Mississippi, the chairman of the Subcommittee on Appropriations. Before we vote, I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I commend the Senator from Montana (Mr. BAUCUS) for his effective support of our Nation's farmers, and I am pleased to join as a cosponsor of this amendment.

NO SPENDING INCREASE

Mr. President, this amendment does not increase the level of Federal spending in this bill, but it will provide that these funds will be spent where they will do the most good in developing badly needed export markets for our agricultural products.

This amendment would specify that the funding level of the market development program of the Foreign Agricultural Service of USDA would be \$31.9 million. This is the same level as the House bill and the same level requested by the administration in their original fiscal year 1982 budget request. These funds would come from other areas of the FAS budget, so there is no increase in spending either for FAS or for the Government as a whole due to this amendment.

EXPORT SUPPORT VITAL

The market development program of FAS is a vital part of our efforts to win new and expanded export markets for our farmers' products. This program helps to fund overseas market development by various commodity groups. I might point out that much of this funding for this work is provided directly by producers themselves through their commodity organizations. Our farmers and ranchers recognize the importance of developing export markets, and I believe that the Federal Government should stand behind them in this effort.

We shall never win long-term increases in sales overseas if we do not provide effective, on-the-ground support to our foreign customers. This is exactly what the cooperator program, which is funded through this market development program and through producer dollars, does. It is not flashy or spectacular. It is more of a tortoise than a hare. It is the day to day grinding work, taking care of the little problems before they become big problems, laying a solid

foundation for good trade relations in the future.

I do not believe that cutbacks in such basic support for our agricultural export efforts is justifiable at this critical time. We are having massive problems overseas with unfair trade practices such as the European community's export subsidy program, which is kicking U.S. farm exports out of third country markets around the world. At home our farmers are facing very low prices and very high interest rates, and there will be fewer farmers next year than this year because of that squeeze.

Agricultural exports are recognized as being vital to our economy. Indeed, agricultural exports appear to be a central part of the administrations' farm program. The Senate Export Caucus, of which I am cochairman, met last month at my request to discuss agricultural exports with Secretary of Agriculture Block and Trade Ambassador Brock. I have asked for hearings in the International Trade Subcommittee, where I am the ranking member, on trade problems affecting our agricultural exports. I am hopeful that such hearings will be held soon, and I hope that by that time the administration may have come up with an effective overall program for addressing these trade problems and increasing our agricultural exports.

I have urged the administration to take effective steps to bring a halt to unfair trade practices, such as export subsidies, and to force adherence to previous trade agreements in certain cases, such as the EC's failure to take the agreed on 10,000 metric tons of high-quality U.S. beef.

In this atmosphere I strongly believe that we need to give our farmers active support as well as rhetorical support in promoting agricultural exports, and so I strongly support this amendment to cut less productive programs in order to maintain a reasonable level of support for our export market development efforts.

This is a very positive way in which the Senator is approaching the problem, Mr. President, and I am delighted to join the Senator on his amendment. One of the mainstays of our export will be agricultural products. We may have to continue that.

I am very pleased to be a cosponsor, Mr. President, and I congratulate the distinguished Senator from Montana for his leadership in this area.

Mr. BAUCUS. Mr. President, I thank the Senator from Texas. As the Senator ably pointed out, there are many, many reasons why we have to be more aggressive. As the Senator from Texas also pointed out, Japan and the EEC countries very heavily subsidize their agricultural producers by erecting stringent barriers to our products being imported. Certainly, if we are going to break down those barriers in other countries, the FAS can help.

Mr. President, without taking any more of the Senate's time, I yield to the distinguished chairman of the Agriculture Appropriations Subcommittee. The

Senator from Mississippi has always been a good friend of U.S. agriculture, and I know he shares my concern for the future of export market development.

Mr. COCHRAN. Mr. President, I thank the Senator from Montana for his comments and the amendment that he has offered. This Senator is sympathetic with and actually shares his views about the importance of agricultural exports for our farmers and for our entire economy.

The market development portion of the Foreign Agricultural Service budget is a cooperative program among our Government and foreign governments and private commodity groups. There is other important work that is done by the Foreign Agricultural Service and we do not want to see that work suffer by any action taken here. It is clear that in the funding level brought to the Senate by the Committee on Appropriations, we have already taken action to restore approximately \$4 million for export development purposes in this budget.

In my judgment, Mr. President, the amendment of the Senator from Montana will not increase the budget level of the bill and is a worthwhile proposal. I have no objection to the amendment, Mr. President. I am willing to accept it.

Mr. LEAHY. Mr. President, I support the amendment by the Senator from Montana to provide funding for the Foreign Agricultural Service. Specifically, I support the efforts of the FAS to expand our export markets. Agricultural exports are important to our Nation's farmers and to our overall economy. Last year our agricultural exports totaled over \$40 billion. These exports contributed to a surplus trade balance of over \$23 billion.

The office of market development provides a valuable service to American agriculture, and I want to congratulate the Senator from Montana for his work on this amendment.

Mr. BAUCUS. Mr. President, the Senator from Vermont (Mr. LEAHY) and the Senator from California (Mr. HAYAKAWA) wish to be added as cosponsors. I ask unanimous consent to that effect.

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

Mr. BAUCUS. I move adoption of the amendment, Mr. President.

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

The amendment (UP No. 551) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 552

(Purpose: To increase amount relating to forestry incentives program)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 552.

On page 41, line 19, strike out "\$11,500,000" and insert in lieu thereof "\$15,000,000".

Mr. HEFLIN. Mr. President, this amendment deals with the forestry incentive program, which, in my judgment, is one of the finest programs we have pertaining to our Nation's future in relation to forests. It is a program which, in the past, has been very effective. The present item in the bill allows for \$11,500,000. I wish to increase this to \$15 million.

Today, with forestry being so important, this is really the incentive program to get land into forestry. We have had programs in the past in connection with our woodlands and I think today that this program needs a greater incentive. Really, it ought to be in the hundreds of millions of dollars to be an incentive for forestry. While I understand the budgetary restraints, I feel that we ought at least to go more than we did last year, which was \$12,500,000.

Mr. President, I have talked to the floor managers about this amendment. They might want to enter into a discussion with me on it. I see Senator COCHRAN on the floor. I really feel this is a very important program.

Mr. COCHRAN. Mr. President, I compliment the distinguished Senator from Alabama for bringing this amendment to the floor. It does highlight the importance of the forestry incentive program, which is very helpful in our efforts to restore and develop our forestry resources throughout the country. It is an important program.

Unfortunately, Mr. President, there was, as everyone knows, a great deal of pressure to reduce the funding levels in every account across the board. The subcommittee looked very carefully at how we might try to reduce the budgetary impact of the programs funded in this legislation. For instance, no increase over last year was granted for the agricultural conservation program. Cuts were made in the waterbank program and the emergency conservation program. The rural clean water program was terminated.

Under these severe budget constraints facing the committee, throughout the bill, there is an effort to reduce spending and get our budget policies under control in an effort to promote economic development. It would be extremely difficult, Mr. President, to justify, then, support for the amendment as presented, because it would mean a significant increase over and above last year's funding level for this program, as important as it is in the State of Mississippi and Alabama and all other States in the country.

I am wondering whether the Senator would be agreeable to modifying his amendment to raise the funding level to last year's level. This would be a significant increase in funding to the amount of \$12.5 million. It is not all the Senator is seeking, but it is an increase; and this Senator would be willing to recommend that the amendment be accepted if that change could be made.

Mr. HEFLIN. Mr. President, I know of the desire on the part of the Senator from Mississippi to bring about economic recovery. I know of his hard work in connection with it over a period of time.

I would reluctantly agree to it if he

would make me a further commitment: if he will make me a commitment that he will fight diligently and hard in conference to see that our forestry incentive program of \$12.5 million is maintained.

Mr. COCHRAN. Mr. President, the Senator certainly has the assurance of the Senator from Mississippi that every effort will be made in conference to maintain the level of funding as provided in the bill as passed by the Senate.

This is an important program. Again, I express my appreciation to the distinguished Senator from Alabama for his effort to bring this funding level up to where it really should be.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays on final passage of the bill.

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

The yeas and nays were ordered.

Mr. HEFLIN. Mr. President, I am willing to modify the amendment. I ask unanimous consent to modify the amendment in accordance with the suggestion of the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Alabama has a right to modify his amendment.

The amendment (UP No. 552) is so modified.

The modified amendment is as follows:

On page 41, line 19, strike out "\$11,500,000" and insert in lieu thereof "\$12,500,000".

Mr. COCHRAN. Mr. President, I think we are ready to have a voice vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama, as modified.

The amendment (UP No. 552), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I thank the distinguished Senator from Mississippi and the distinguished Senator from Missouri (Mr. EAGLETON), with whom I have discussed this matter, for this very enlightened approach that the Senate has taken toward the forestry problems of the Nation.

UP AMENDMENT NO. 553

(Purpose: To reduce the direct loan levels of insured community facility loans and insured water and sewer facility loans)

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment on behalf of myself and Senator HELMS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself and Mr. HELMS, proposes an unprinted amendment numbered 553.

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

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

The amendment is as follows:

On page 29 strike lines 16 through 18 and insert in lieu thereof: "\$300,000,000; guaranteed industrial development loans, \$300,000,000; and insured community facility loans, \$130,000,000."

Mr. DOMENICI. Mr. President, I have discussed this amendment with the distinguished floor manager of the bill, and I understand that he supports it.

Basically, this amendment will make the loan levels contained in this appropriation bill for the Farmers' Home Administration water and sewer and community facility loan programs consistent with the authorized levels for these programs contained in the authorizing bill known as the Omnibus Reconciliation Act of 1981 and with the levels requested by the President.

The Omnibus Reconciliation Act in this area authorized fiscal year 1982 loan levels of \$300 million for the water and sewer loan program and \$130 million for the community facility loan program. Loan levels in this bill exceeded that authorized amount by \$25 million and \$5 million, respectively.

My amendment, therefore, has loan levels for these two programs at the levels authorized in the Omnibus Reconciliation Act and \$25 million and \$5 million, respectively, lower than in the bill before us.

Mr. COCHRAN. Mr. President, the Senator from Mississippi appreciates the distinguished Senator from New Mexico bringing this matter to the attention of the Senate.

His amendment is consistent with the prior action in this area in reconciliation in the budget resolution. Although there is no budget authority impact in these accounts, the Senator is correct, and I am prepared to recommend that we accept the amendment of the Senator from New Mexico.

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

The amendment (UP No. 553) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I have an amendment at the desk which will clarify congressional intent relating to the food stamp amendments of 1977. This amendment merely speaks to a technical point of procedure and in no way modifies the substance of the food stamp program itself. Briefly stated, the Federal circuit courts of appeals have differed on whether a district court, in affording a "trial de novo" under the Food Stamp Act to determine the validity of an administrative finding of a violation, can alter the administratively imposed sanction for the violation even if it finds a violation existed. *Martin v. United States*, 459 F.2d 300 (6th Cir. 1972), cert. denied, 409 U.S. 878 (1972); *Save More of Gary, Inc. v. United States*, 442 F.2d 36 (7th

Cir. 1971), cert. dismissed, 404 U.S. 987 (1972); *Cross v. United States*, 512 F.2d 1212 (4th Cir. 1975); *Goodman v. United States*, 518 F.2d 505 (5th Cir. 1975).

Given this dispute, I believe that it is appropriate for the Congress which wrote the legislation to issue a clarification. I want to emphasize from the beginning, before going into further detail, that this amendment in no way mandates or prejudices what the courts must decide on the degree of the sanction. They could either increase or decrease the sanction.

An example will provide a useful context in which to understand this clarification. A food retail store which has a license to accept food stamps can only accept them for food items. If it accepts food stamps for nonfood items, and the Department of Agriculture's inspectors discover this, then the retail store may either be assessed a monetary penalty or have its license suspended for up to 3 years. The existence of a violation and the assessment of a sanction for it are determined in the first instance on the administrative level. However, the retail food store can then go to a district court for a trial de novo to determine the validity of the administrative finding of a violation.

It seems illogical to me that the Congress intended that the courts have the power to look at the validity of the administrative finding as to a violation without giving the courts the power to examine the appropriateness of the sanction tied to the violation. It is illogical to think that Congress intended that the courts could find 8 out of 10 of the alleged violations did not in fact occur but then, nevertheless, allow to go unaltered the sanction which had been imposed by the administrator who claimed that all 10 violations existed. To reason otherwise is to say that the Congress in passing the Food Stamp Act of 1977 was acting out of a spirit other than that the punishment should meet the crime.

All my amendment is designed to do is to make it clear that Congress intended that a trial de novo would involve decisions about penalties as well as involving decisions about the extent of the violations. I have discussed this amendment with the distinguished Senator from Mississippi and I wonder if he might want to comment on it at this point.

Mr. COCHRAN. I have discussed this issue with my friend from Michigan. I am not at all sure that any clarification is required, since it would seem that the court should have the ability, in a trial de novo, to address the penalty issue. To the extent, however, that the Senator from Michigan believes a clarification is needed, I would like to be able to accommodate him. Unfortunately, as we have discussed, this particular amendment would involve legislation on an appropriations bill and, as a result, I cannot accept it.

Therefore I would encourage the distinguished Senator from Michigan to introduce the amendment as a separate piece of legislation where the full benefit of hearings can be obtained before being acted on by the full Senate.

Mr. EAGLETON. Mr. President, I think "de novo" means de novo—not partial de novo, but de novo. I do not see why an amendment should be necessary. I would be happy to consider a separate bill, if it is filed.

Mr. LEVIN. I appreciate those comments, and I understand the constraints under which my friend from Mississippi is operating. I think I have made progress, and I will not offer the amendment. I ask unanimous consent to have the amendment printed in the RECORD.

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

H.R. 4119

At the appropriate place in the bill insert a new section as follows:

SEC. . . Section 14 of the Food Stamp Act of 1977 (7 U.S.C. 2023) is amended by inserting after the ninth sentence the following new sentence: "If the court determines that such administrative action is valid, in whole or in part, it may modify, reduce, suspend, set aside, or affirm such action in accordance with the facts and circumstances of the case or the severity of the violation of the Act by the store, concern, or State agency."

Mr. COCHRAN. Mr. President, the Senator from Michigan has brought up a very important point. I thank him for his initiative, and I assure him that I believe this is going to bear fruit in due course.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to make a few observations about the bill before we vote on it.

H.R. 4119 as reported provides \$21.1 billion in new budget authority for fiscal year 1982.

The bill as reported is below the Agriculture Subcommittee's first budget resolution crosswalk allocation by \$1.0 billion in budget authority and is at the allocation in outlays. With later funding requirements for food stamps and the October 1981 pay raise, the subcommittee would exceed its crosswalk allocation for outlays by \$0.9 billion. Budget authority for the bill with later requirements would be under the crosswalk allocation by \$0.1 billion.

After adjusting for food stamps, the President's September request represents an 8-percent cut in budget authority and 7-percent reduction in outlays from the March level. On a comparable basis the Agriculture appropriation bill cuts budget authority by 6 percent and outlays by 4 percent from the President's March request.

The reported bill is \$0.5 billion in budget authority and \$0.6 billion in outlays above the President's September request for programs within the Agriculture Subcommittee's jurisdiction. And I do not say that indicating that the subcommittee should or should not have complied with that very late request of September. I say it merely to put on the record what it would mean, if we were trying to comply with the very late, across-the-board, 12-percent appropriation by appropriation account cut.

The largest increase in the bill over the President's September request is \$0.3 billion for the women, infant and chil-

dren's special supplemental food (WIC) program. However, the level in the bill is consistent with the level adopted in the Reconciliation Act and the first budget resolution.

Agricultural research and extension, Public Law 480—food for peace, and agricultural and soil conservation programs each exceed the President's September request by \$0.1 billion.

For food stamps, the reported bill is at the level formally requested by the President in September. However, the Appropriations Committee report indicates that this funding would only be sufficient for 10½ months without further legislative changes or a significant pro rata reduction. CBO estimates support this conclusion. OMB has indicated that supplemental funding of \$0.9 billion will be requested later for the food stamp program.

The committee reported bill exceeds the credit budget assumptions of the first budget resolution by \$0.3 billion and these are not binding ceilings. The full committee after receiving the President's September revisions substantially reduced the credit limitations by \$0.4 billion from the original subcommittee recommendations made in July, and I commend them for that.

Mr. President, I ask unanimous consent that a table showing the relationship of the reported bill, together with possible later requirements, to the congressional and President's budgets be printed in the RECORD.

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

AGRICULTURE SUBCOMMITTEE

[In billions of dollars]

	Fiscal year 1982	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed.....	2.3	1.9
H.R. 4119, as reported in Senate.....	21.1	17.8
Possible later requirements:		
Food stamps.....	.9	.9
October 1981 pay raise.....	(¹)	(¹)
Total for Agriculture Subcommittee.....	24.3	20.6
1st budget resolution level.....	24.4	19.7
House level.....	24.9	20.9
President's March request.....	25.8	21.6
President's September request.....	23.8	20.0
Agriculture Subcommittee compared to:		
1st budget resolution level.....	-.1	+.9
House level.....	-.6	-.3
President's March request.....	-1.5	-1.0
President's September request.....	+ .5	+ .6

¹ Less than \$50,000,000.

Mr. DOMENICI. Mr. President, I thank the distinguished floor manager for his indulgence.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from New Mexico for his comments about the bill.

I wish to remind the Senate, also, that the funding levels contained in this legislation are about \$2.6 billion below last year's fiscal year funding levels and that after the September budget request was submitted to our subcommittee we went back to a bill that had already been marked up and cut \$1.1 billion in budget authority from that bill.

A very concerted but sensitive effort has been made to reduce spending in virtually all programs that now could sustain further cuts with this amendment—programs designed to protect the safety and health of citizens who depend upon a lot of needed benefits and programs that are funded in the bill.

THE ECONOMICS OF NOXIOUS WEED RESEARCH

Mr. BAUCUS. Mr. President, I rise today to draw the Senate's attention to the economics of weed research on a particularly noxious weed—leafy spurge. The mention of leafy spurge strikes fear into the hearts of farmers and ranchers in my home State of Montana. And well it should.

Leafy spurge is a deep-rooted perennial weed that now infests about 3 million acres of crop and grazing lands in the North-Central and Western States. The most serious infestations occur in North Dakota, Montana, Nebraska, South Dakota, and Wyoming, but infestations also are found in other States.

Moderate infestations often reduce grazing by 75 percent. Leafy spurge would not present as serious a problem if current control practices were not inadequate and the cost of control was not prohibitive. Weed scientists, who know the seriousness of the problem indicate that the 3 million acres now affected may double in the next 3 years without the development of adequate control practices. That is 6 million acres of private and public range and cropland.

The magnitude of the problem is underscored by the fact that the root systems of leafy spurge often reach a depth of 20 to 30 feet. If you think I must be exaggerating, ask any farmer, rancher or researcher that has seen the scourge of leafy spurge firsthand.

The economic impact of leafy spurge infestation is startling. The Montana legislature and the Montana Department of Agriculture estimate that the agricultural loss due to noxious weeds reaches \$100 million annually in Montana alone. Leafy spurge is a major contributor to this total.

Ranchers, farmers, and the affected States are not asking the Federal Government to step in and solve this problem for them. What they are asking for is a cooperative effort to control the expansion of this economic menace. The infestations affect private, State, and Federal land. County weed boards and the States are willing to finance efforts to control the infestation. But they need and deserve the help of the Federal Government.

The current USDA research program is supported with \$270,000 annually. The measure now under consideration by the Senate contributes about this level for fiscal year 1982. This falls far short of what is needed.

An intensive cooperative planning effort by State and Federal scientists, Federal land managers and private landowners has indicated that at least \$2,000,000 annually is needed to support research and control for our rangelands. Again, this is a bare minimum figure.

What I am asking for today is not an increase in the budget levels for this much-needed research. I am merely ask-

ing that USDA make the control of leafy spurge one of their top priorities.

I, therefore, ask my distinguished colleague from Mississippi to join my effort to gain the attention of USDA on this important matter. I would add that my colleague from North Dakota, Mr. BURDICK, shares my concern on this problem and has been active in seeking a remedy to the crippling effects leafy spurge continues to have on the farm economy in both of our States.

Without further explanation of the seriousness of this problem, I am prepared to yield to the distinguished chairman of the Agriculture Appropriations Subcommittee.

Mr. COCHRAN. Mr. President, the distinguished Senator from Montana is entirely correct in his approach to this difficult and costly rangeland weed. The committee has been urging the Department to expand its research program toward the identification of effective biological agents which can provide lasting and inexpensive control of rangeland weed pests.

The committee discussed this particular weed pest during its hearings on the fiscal year 1982 budget when the Senator from North Dakota (Mr. BURDICK) described the magnitude of the threat posed by leafy spurge in the North-Central States.

It was made clear at that time that it is economically impossible to control this weed through mechanical or chemical methods. The only answer to this problem will be through development of a sound biological control program. I am happy to join with my colleague from Montana in urging that the Department of Agriculture make control of leafy spurge one of its top research priorities.

THE REDUCTION OF EXPENDITURES FOR PUBLIC RELATIONS, PUBLIC INFORMATION, AND ADVERTISING AT THE DEPARTMENT OF AGRICULTURE

Mr. BAUCUS. Mr. President, as many of my colleagues may remember, last year I began a campaign to reduce agency budgets for public relations, public information and advertising. Earlier this year, President Reagan joined the fight by imposing a moratorium on new Government publications and audiovisual aids.

Excesses in Government public relations is not a new problem for this Government. Concerns about abuses in the public affairs divisions of Government agencies date back at least to 1913 when the House of Representatives debated an amendment requiring a specific appropriation before an agency could hire a publicity expert.

In the last 10 years, both Houses of Congress, the Senate Governmental Affairs Committee, the General Accounting Office, the Congressional Research Service, the Office of Management and Budget, and individual agency audit and management teams have studied the problems and abuses of Government advertising and public relations. The conclusions have all been similar; excesses do exist and Government agencies do not have a handle on the problem.

Yet, during this time when report after report was being issued, public affairs budgets continued to rise. New

pamphlets were written and mailed out by the millions. Agency press releases were written and sent to newspapers on a daily basis. And films were produced and shipped to television stations across the country to be aired on late night television.

After reviewing agency budgets and after reviewing large boxes filled with pamphlets paid for by Federal tax dollars, I became convinced that the best way to encourage more sensible use of tax dollars was to begin cutting budgets. With the unanimous support of my colleagues, I offered amendments to cut 10 percent from the advertising and public relations budgets included in the Transportation, HUD, and State appropriation bills.

Mr. COCHRAN. Will my distinguished colleague from Montana yield?

Mr. BAUCUS. I will be glad to yield to my good friend from Mississippi.

Mr. COCHRAN. I share the Senator from Montana's concern about the misuse of taxpayer dollars by agency public affairs divisions. I am sure that my distinguished colleague is aware that the bill currently being considered by the Senate increases the governmental and public affairs budget for the Department of Agriculture by only \$84,000 over the 1981 appropriation. Since the annual inflation rate for printing costs is somewhere in the neighborhood of 10 to 15 percent, we are actually reducing the amount of money available for new public relations material.

Mr. BAUCUS. I appreciate and agree with the distinguished chairman's efforts to hold increases to the bare minimum. I am concerned, however, with the House increase of over \$600,000 over the 1981 spending level. Will the chairman hold firm in conference to assure that the Senate figures are used?

Mr. COCHRAN. I will do my best to see that the House Members agree to our level of spending. I agree with my friend from Montana that it is time we hold down the budgets so that the Department can get its public relations house in order.

Mr. BAUCUS. The Senator from Mississippi raises a good point. I would like to bring to the chairman's attention and to the attention of the other Members of this body, a Department of Agriculture report done back in 1976 for then Assistant Secretary for Administration, J. P. Boldoc. The report is entitled, "Production, Storage and Distribution of Forms and Publications in the U.S. Department of Agriculture." According to the findings of this internal report, the Department of Agriculture could save at least \$1.5 million annually by consolidating and automating their publication distribution system. One would think that given the amount of money that could be saved, the report's recommendations would have been implemented long ago. Unfortunately, as is all too often the case, the report was mostly forgotten.

Someone gave me this report in June of this year, 4½ years after it was completed. I wrote to Secretary Block and asked him which of the recommendations had been implemented and which

had not. According to his reply, only two of the six recommendations had been implemented. The other four recommendations appear to be in bureaucratic limbo. I do not blame Secretary Block for inaction on a report completed in 1976, but the recommendations are still valid and it is this type of common sense, no nonsense management, that this Government and, public affairs divisions in particular, need.

Mr. COCHRAN. I would appreciate receiving a copy of that report. I certainly agree with you that if plans already exist for saving money, they should be implemented.

Mr. BAUCUS. Would the good chairman use his influence with the Department of Agriculture in seeing that the recommendations in this report are carried out this year? Perhaps a joint letter from the two of us would impress upon the Agriculture officials that we are serious and expect results.

Mr. COCHRAN. I would be glad to join in a letter with you. And, I can assure my friend from Montana that if the Department of Agriculture fails to do all it can to cut unnecessary costs in this area, I will join with my distinguished colleague next year in cutting their budgets by what they should have saved.

Mr. BAUCUS. I thank the chairman for his support. Mr. President, I ask unanimous consent that my letter of June 19 to Secretary Block and his response to me of July 20 be printed in the RECORD.

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

U.S. SENATE,
June 19, 1981.

HON. JOHN R. BLOCK,
Secretary,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you may know, for the past year I have been reviewing the advertising and publication programs of various federal agencies. My purpose is to assure that wasteful expenditures of federal tax dollars are eliminated.

I recently reviewed a Department of Agriculture report entitled "Production, Storage and Distribution of Forms and Publications in the U.S. Department of Agriculture, October-December, 1976." The report was prepared for then-Assistant Secretary for Administration, J. P. Boldoc.

The report concludes that several million dollars of the \$25 million spent annually by the Department on printing, storing and distributing publications could be saved by consolidating storage and distribution facilities, reducing the amount of publications and utilizing an automated inventory system. To further my understanding of the actions taken by the Department since this report was issued, I would appreciate receiving from you a response to the following questions:

(1) Which recommendations listed in the report have been implemented? Please list each recommendation implemented, date of implementation, and estimated amount of savings.

(2) Which recommendations listed in the report have not been implemented? Please list each recommendation not implemented, the reason why it has not been implemented, and the estimated savings if the recommendation were implemented this year.

(3) What plans does the Department have to implement recommendations listed in the

reports but not yet implemented? Please list each recommendation, estimated date of implementation and estimated savings.

(4) What was the estimated cost of producing this report?

Thank you for your attention to this matter.

With best personal regards, I am
Sincerely,

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 20, 1981.

HON. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: Thank you for your letter of June 19 to me regarding the report entitled "Production, Storage, and Distribution of Forms and Publications in the U.S. Department of Agriculture." I greatly appreciate your interest in the distribution and storage of our publications and forms.

In December 1976, a task force representing the Office of Communication, the Office of Operations, and Office of Management and Finance presented an overview of the production, storage, and distribution of forms and publications in USDA. These findings suggested changes to the system that would result in substantial savings to USDA. They are listed below in order of priority for action:

1. Develop and implement an automated inventory system at the Landover warehouse.
2. Consolidate publications storage and distribution activities within the Washington metropolitan area.
3. Eliminate overstocking by developing directives with procedures that insure austere buying practices.
4. Reduce storage and distribution costs by authorizing field offices to reproduce cut sheet forms up to 50,000 sheets.
5. Geographically regionalize the forms and publications warehouse activities.
6. Consolidate forms and publications distribution for service center agencies.

Since the report was issued, USDA has implemented an automated inventory system for the Landover Forms and Publications Warehouse in November 1980. While the system is currently operational, it is still being refined and updated. The system provides participating agencies with a monthly accounting of all their forms and publications stocked at the warehouse. It gives quantities on hand, requisitions processed, and minimum and out-of-stock levels. Approximately 150 obsolete forms were eliminated from the inventory when the system was installed. Stocks are being reduced to one year's supply as a result of better management. Cost of outgoing shipments have been reduced by approximately \$20,000 a year in UPS and USPS shipments alone.

Additional savings of about \$60,000 a year have resulted from careful selection of the carrier for bulk shipments. The availability of additional storage space due to the re-warehousing can be translated into a savings of approximately \$100,000 a year. All modifications to the existing "software" system should be completed by September 30, 1981. It should be noted that the Landover Warehouse is currently under A-76 review. Under the A-76 analysis, an effort is being made to assess the capabilities and economies of commercial firms to provide forms and publications storage and distribution services. This review will take about one year and could result in commercial firms operating that function.

Reduced the storage and distribution of cut sheets (i.e., single sheets). In order to allow field activities to reproduce forms (cut sheet) in quantities up to 5,000 copies, the Agriculture Property Management Regulations were amended in 1978. We estimate this change has resulted in an annual savings to the Department of about \$500,000

a year. However, this data has not been confirmed by follow-up review.

As more information is obtained on agency cut sheet forms reproduced and stored at various locations nationwide, it is believed that additional dollar savings can be identified.

The following recommendations listed in the report have not been implemented:

Consolidate publication storage and distribution activities within the Washington metropolitan area. The bulk publication storage for many agencies which are now storing publications at approximately 10 different locations in the Washington, D.C., area could be centralized. It is estimated that between 25 to 50 percent of the space costs now required could be saved by centralization. Savings would result from proper utilization of publication storage space, centralized shipping procedures, reduced staffing, and utilization of existing packing and mailing functions at Landover.

The consolidation of a major portion of publication storage and distribution plans were shelved pending completion of the automated inventory system at the warehouse. It was envisioned that space would be available for publications when estimates could be established for maintaining the inventory system. We could then use the same packing and shipping facility for forms and thus avoid the duplication of effort. We feel the payoff at this time could be greater than previously anticipated. This effort will be continued as time allows.

Eliminate overstocking by developing headquarters and field directives that insure economical buying practices. The actual distribution of Department forms and publications, especially at field locations, has not always been properly monitored. One activity may have a surplus of a particular form or publication while another may need more. Efforts have been made by a few agencies to reduce overstocking at field offices and some success has been achieved. At the Landover Warehouse, tighter procedures are helping greatly in planning the restock levels of forms and publications and in reducing surpluses and shortages. An aggressive program aimed at reducing overstocking Departmentwide could bring about an annual savings of approximately \$200,000. The Forms Management Staff, Office of Operations and Finance, will develop guidance in this area as time allows.

Regionalize the forms and publications warehouse activities. It has been recommended that a 15,000 square-foot warehouse west of the Mississippi River should be established to improve distribution to the Midwestern and Western States. Ordering would be through the Landover Warehouse with direct shipments from the printer to the warehouse.

The Regional warehouse concept will not be developed until the inventory system at Landover has been developed. The concept will be implemented as resources are available.

Consolidate forms and publications distribution for service center agencies. The Service Center operational concept calls for maximum sharing of workload, facilities, equipment, information, and personnel to provide the most economical and efficient service to farmers, ranchers, and other rural residents. The primary agencies whose local offices are collocated under the Service Center concept are ASCS, FmHA, SCS, FCIC, and ES. There is a potential for improved service and reduced operating costs by coordinating the storage and distribution of forms and publications among the major Service Center activities. No action has yet been taken on this recommendation.

The estimated cost of producing the December 1978 report was approximately \$30,000.

In conclusion, let me say that the Department's task force suggestions point the way to better planning, greater economy, and improved distribution and storage of our forms and publications. We will continue to carry out the objectives of this report as resources are available.

Again, I appreciate your interest and assure you that the matter will be given appropriate priority.

Sincerely,

JOHN R. BLOCK,
Secretary.

UP AMENDMENT NO. 554

(Purpose: Technical amendments)

Mr. COCHRAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 554.

On page 45, line 8, strike "2027" and insert in lieu thereof "2028".

On page 45, line 23, strike "2027" and insert in lieu thereof "2028".

On page 27, line 10, strike "\$3,195,600,000" and insert in lieu thereof "\$3,275,600,000".

Mr. COCHRAN. Mr. President, these are three technical amendments to the bill. The first two correct the food stamp authorization citation to include the Puerto Rico block grant program enacted in the Omnibus Budget Reconciliation Act of 1981.

The last amendment conforms the total for subsidized housing loans in the Farmers Home Administration to the level reported by the committee.

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

The amendment (UP No. 554) was agreed to.

UP AMENDMENT NO. 555

(Purpose: To assure continuation of an effective job referral program under the food stamp program)

Mr. COCHRAN. Mr. President, I have another amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 555.

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

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

The amendment is as follows:

On page 45, line 21, before the period add the following:

" : Provided further, That not less than \$65,000,000 of the amount provided herein shall be used for work registration and job search activities"

Mr. COCHRAN. Mr. President, the purpose of this amendment is to assure continuation of an effective job referral program under the food stamp program.

It has recently come to the attention of the committee that the administration plans to reduce funding of work registration and job search activities by almost half to a level of \$30 million. This

is contrary to congressional intent in enacting tougher work registration requirements last year and the administrative regulations adopted by the administration this spring.

If this amendment is not adopted, referral to State and local employment agencies will be reduced from 1 million down to only 800,000.

This means that 1.2 million food stamp recipients and their families will remain on public welfare and food stamps simply because there will not be funds to encourage them to get jobs to support themselves.

This amendment adds no funds to the bill. It merely requires that, of the funds appropriated for the food stamp program, \$65 million be used to assist participants to obtain employment.

Mr. EAGLETON. Mr. President, I am aware of no problem with this amendment on this side of the aisle, and I am prepared to go along with it.

I point out, however, that there has been some concern in the past over the cost effectiveness of these work registration programs. Recently, though, some pilot projects on new methods of job search have shown promise. I trust Senator COCHRAN would agree that the Department should utilize the most cost-effective means of carrying out a job search program.

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

The amendment (UP No. 555) was agreed to.

SOY PROTEIN

Mr. EAGLETON. Mr. President, the Senator from Missouri would like to get a clarification from the distinguished subcommittee chairman.

My question relates to the expenditure of funds appropriated for use in the school lunch program by the Food and Nutrition Service (FNS). Specifically I am concerned about outdated regulations regarding the use of soy ingredients in meat products used in the program.

As I think my subcommittee chairman will agree, the first consideration in running the school lunch program should be to give the school child a quality meal. The meal should be tasty as well as nutritious.

Yet the FNS still requires that meat products with soy ingredients be formulated with the earliest and least palatable form of ingredient, known as soy flour or textured vegetable protein (TVP).

As many of us have heard, the early use of soy flour in the program resulted in a product that did not have the traditional taste and quality that people are used to. The consequence was plate wastage. School children simply dropped their meat entree into the garbage.

That was several years ago. Since that time, many companies have developed better soy ingredients. There are now on the market soy concentrate and soy protein, the latter known technically as soy protein isolate. The use of these ingredients, especially soy protein, provides a meat product that maintains traditional taste and quality as well as high nutrition.

The question I want to ask the chairman, is it his view that the FNS regula-

tion, FNS notice 219, should be designed to allow the use of soy protein and soy concentrate which provide for traditional taste, quality, and nutrition in meat products in the school lunch program?

Mr. COCHRAN. Mr. President, I thank the distinguished senior Senator from Missouri for calling this matter to my attention.

It certainly is my view that the FNS regulation should not arbitrarily restrict the use of all soy ingredients in meat products including soy protein and soy concentrate as the Senator has indicated.

As I understand, the Food and Nutrition Service has had such a change under consideration for several months and may be on the verge of making it. As the Senator said, "The first priority should be to get a good product to the school-child, and therefore, changes to promote this goal ought to be made as soon as possible."

This matter is especially important during this time of trying to hold down the budget. If the use of soy protein and soy concentrate in meat products in schools can economize and still provide a tasty meal, I can see no objection to it.

As I understand, Secretary Block and Assistant Secretary Jarratt have tasted ground beef and soy protein products and recognize that traditional quality and taste are better maintained than in the currently required product.

There is another aspect that is important for States such as ours where livestock and soybeans are both grown. The soy ingredient makes meat more economically competitive with other authorized substitutes. Schools can serve meat products more often and better satisfy the taste for meat in the meal. The more economical product will reduce the pressure on schools to turn to meat substitutes and, hopefully, will somewhat expand the use of meat.

Mr. EAGLETON. I thank the distinguished subcommittee chairman. I agree that the regulation change should be made at the earliest date, to allow the use of all quality products in the program, for this will facilitate getting a high quality, tasty and nutritious meal to our children.

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

● Mr. DOLE. Mr. President, the Subcommittee on Agriculture Appropriations has done a commendable job in its attempts to enable Federal nutrition programs to continue to provide benefits and services at reasonable funding levels. At the same time that it establishes a realistic funding framework for these programs, this legislation has heeded the budget constraints of the fiscal environment in which the Federal Government is now forced to operate.

The Senator from Kansas would especially like to congratulate the distinguished chairman of the Agriculture Appropriations Subcommittee, Mr. COCHRAN, and the distinguished ranking minority member, Mr. EAGLETON, on their leadership throughout this difficult process.

Mr. President, the Omnibus Reconciliation Act of 1981 reduced fiscal year 1982

food stamp program costs by about \$1.65 billion, and the House farm bill adds about \$650 million in additional spending reductions by delaying the cost-of-living increase scheduled for April 1, 1982, to October 1, 1982. Although the administration's official fiscal year 1982 request is currently set at \$10.3 billion, it is the understanding of this Senator that the administration did also agree to set the fiscal year 1982 authorization ceiling at the more realistic level of \$11.3 billion.

In an October 8 letter to Representative WHITTEN, Deputy Secretary of Agriculture Lyng indicated that, although the official administration request is for \$10.3 billion, another \$900 million has been designated for later transmittal, pending any additional legislative changes that may be forthcoming. It is important to note that the Deputy Secretary has referred to the \$11.3 billion level as an acceptable upper limit on food stamp expenditures for this fiscal year.

Mr. President, it was extremely wise for the Agriculture Appropriations Subcommittee to provide \$10.3 billion for 10½ months of food stamp program funding, because this action will keep the options of the Congress open as the coming months progress. The report language included with H.R. 4119 unquestionably expresses the intent of the committee to maintain flexibility, as well as careful congressional monitoring of food stamp program funding needs. I ask that the following excerpt from the committee report be included in my statement at this point:

The funding level provided by the Committee assumes rates of inflation and unemployment levels consistent with the administration's current projections. Should these projections prove too optimistic and should delays occur in implementation of changes made in the program by the Omnibus Budget Reconciliation Act, food stamp costs will, undoubtedly, increase. The Committee believes it would be unjust for program recipients to suffer benefit reductions due to inaccurate projections of program cost. Therefore, no action should be taken by the administration to reduce benefit levels in accordance with section 18(b) of the Food Stamp Act without the Congress being given ample opportunity to consider required supplemental funding. Upon enactment of further legislative changes, the Committee will expect an expeditious report on the impact of such changes on the funding requirements for the program.

The Committee expects to be kept fully informed of all actions taken which would affect benefit levels and overall program funding needs.

While the committee did not see fit to provide appropriations up to the \$1.017 billion level established in the Reconciliation Act for the special supplemental feeding program for women, infants, and children (WIC), it has still provided a reasonable level of funding to maintain close to the current level of services for program participants; \$973 million, in addition to some identified carryover funds, might prove to be adequate, and the Senator from Kansas hopes that this is the case.

I was also pleased to see a full \$5 million given to a less familiar program to many—nutrition education and training.

Small as this program is, it has considerable merit and great potential in helping a large part of our Nation's population learn to develop better eating habits.

Again, the Senator from Kansas commends the leadership of the Agriculture Appropriations Subcommittee, as well as its members, on steering a very difficult course through budget labyrinths against a tide of demands that, before this year, were unprecedented. As chairman of the Nutrition Subcommittee, the Senator from Kansas has a great interest in the programs covered by this appropriations legislation. I am pleased to express my support for H.R. 4119, as reported from the Appropriations Committee, and I recommend that this legislation pass the Senate without amendments.●

(By request of Mr. BAKER the following statement was ordered to be printed in the RECORD:)

PEACH TREE SHORT LIFE

● Mr. THURMOND. Mr. President, as the Senate considers the fiscal year 1982 agriculture appropriations bill today, I would like to make a few comments about a matter of great importance to my State of South Carolina. Many persons are not aware of the fact that South Carolina is the second largest producer of peaches in the country, exceeded in production only by the State of California.

Like most farmers, peach producers must cope with the vagaries of the weather and with a number of plant pest problems. Recently, some of these problems have become increasingly severe, particularly for peach growers in the Southeast. Thus, because this commodity is so vitally important to the agricultural economy of my State and others in the Southeast, I asked Congress last year to initiate funding for a special research grant to develop strategies for coping with the phenomenon known as "Peach Tree Short Life." This program, developed and coordinated by Clemson University, was established to expand research that would help solve the problem of premature tree death which is plaguing growers in the Southeast.

Mr. President, I was gratified when we were able to secure \$100,000 last year for funding of this much-needed research. This program, and other peach research, is vital to the industry and has helped insure the survival and profitability of peach growers across the Nation.

In this regard, I am pleased to inform the Senate that recently, breakthroughs were made by South Carolina peach researchers. These developments will make an important contribution to farm progress and the quality of life for many Americans.

These research contributions were made possible through funds that were appropriated by Congress and matched by the State of South Carolina.

Mr. President, researchers at the South Carolina Agricultural Experiment Station of Clemson University have discovered new pesticide application programs designed to reduce the number and amount of pesticides needed to produce quality peaches. This new program controls harmful diseases and insects,

thereby allowing peach growers to save energy and reduce their production cost by as much as \$50 per acre.

I am pleased to inform my colleagues of this research advancement, pleased that this research has been accomplished in South Carolina, and gratified to have played a small part in this success, along with my colleagues.

Of course, this is only the beginning of urgently needed advancements and improvement in this field. Agricultural researchers can only continue to assist peach growers through improved production processes such as this so long as they have the necessary funds to do the job.

Consequently, I am extremely pleased with the decision of the Senate Agricultural Appropriations Subcommittee to allocate an additional \$200,000 for the peach tree short life program this year. These funds will be wisely utilized to carry forward this essential program, and I am confident that the results of this research will be beneficial to peach growers and consumers.

Mr. President, I would particularly like to thank the distinguished Senator from Mississippi (Mr. COCHRAN) who serves so ably as chairman of the Agricultural Appropriations Subcommittee. He has been very understanding of the need for these special research grant funds and has been most helpful during this tight budget situation in seeing that this program is given the priority it deserves. The bill as passed by the House did not include funding for the peach tree short life research program.

Thus, in conference with the House, peach producers will continue to need the advocacy and assistance of Senator COCHRAN and the other Senate conferees. I hope they will do their very best to see that this \$200,000 grant of research funds receives final approval. All of us interested in this project are most appreciative for the support which Senator COCHRAN and the entire Senate have given in this matter.●

● Mrs. KASSEBAUM. Mr. President, I want to take this opportunity to call the attention of my colleagues to language dealing with orphan drugs included in the report of the Senate Appropriations Committee accompanying the fiscal year 1982 agriculture, rural development, and related agencies appropriation bill. Drugs used in the treatment of rare diseases are commonly known as orphan drugs because the demand for them is too small to generate an adequate financial return on the development and related costs of their production. Due to their limited commercial value, a number of drugs which are useful in the treatment of conditions such as Huntington's disease and Tourette syndrome are simply not available.

The report language of the Appropriations Committee recognizes the pressing need to address the multiple problems associated with orphan drug development and distribution. It further directs the Food and Drug Administration to assume a leadership role in developing a coordinated and comprehensive response to the orphan drug problem.

Earlier this year, I introduced legislation (S. 1498) which would establish an

office within the National Institutes of Health to address this serious problem. A bipartisan group of 15 Senators have joined in cosponsoring this legislation, including Senators COCHRAN, MATSUNAGA, KASTEN, COHEN, SARBANES, HATFIELD, STEVENS, JACKSON, HEINZ, MOYNIHAN, WILLIAMS, RANDOLPH, DECONCINI, DENTON, and CRANSTON. I am extremely pleased at the growing interest in the orphan drug issue and will continue to seek a permanent resolution of this problem.

The direction provided in this report is a step toward this goal, and I commend the Senate Appropriations Committee for its positive contribution to this effort. Particular recognition is due for the concern and initiative demonstrated by the chairman of the Agriculture Appropriations Subcommittee, Mr. COCHRAN; the ranking minority member of the subcommittee, Mr. EAGLETON; and the chairman of the full Appropriations Committee, Mr. HATFIELD. It is my hope that FDA—working in cooperation with NIH, other Federal agencies, and the private sector—can make significant progress in dealing with the complex factors now hampering orphan drug development.

Mr. President, I ask that the orphan drug report language appear in the RECORD at this point.

The report follows:

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATION BILL—1982
(Report to accompany H.R. 4119. S. Report 97-248)

ORPHAN DRUGS

The Committee is sensitive to the concerns and needs relevant to the so-called orphan drugs. These are drugs that, for one reason or another, for example, lack of interest or economic incentives for industry, are not fully developed and marketed. This is an area that has been subjected to a good deal of study, but which is apparently not being effectively addressed at this time. In view of this and because of the importance of these drugs to certain of our citizens, this Committee recommends that the Food and Drug Administration take the lead in designing a program, alone or in conjunction with other agencies, academia, or industry, to develop, test, and bring to market orphan drugs that are known and needed, and to identify and actively pursue any other such needs as they become known.

In the Committee's view this issue goes beyond the limited jurisdiction and budgetary resources of the Food and Drug Administration and should also be addressed by other agencies within the Department of Health and Human Services, especially the National Institutes of Health. The Committee expects the Department, therefore, to expeditiously develop an apportionment plan of the costs of this study which approximately utilizes the available resources of such agencies. The Food and Drug Administration is directed to undertake the required studies and report its plan of action and its interim accomplishments to this Committee prior to the Senate Appropriations Committee hearings on the FDA fiscal year 1983 budget, and in any event, no later than May 1, 1982.●

WOMEN'S, INFANTS' AND CHILDREN'S FEEDING PROGRAM FUNDING MUST BE MAINTAINED

● Mr. BIDEN. Mr. President, I support the agriculture appropriations bill, H.R. 4119. I believe that the committee has done a fine job in preserving the integrity of our basic nutrition programs.

However, I must express my concern about recent administration actions to curtail funding for the special supplemental food program for women, infants, and children (WIC). Congress has clearly expressed its intention that the WIC program be funded at a level sufficient to maintain current caseloads or approximately 2.2 million recipients. This was made clear in the continuing resolution passed by Congress earlier this year. To provide adequate funding, approximately \$140 million would be required under the continuing resolution to carry the program through November 20.

The administration did not release any funds for the program until the middle of October. As a result, the State of Delaware ran out of money and for 12 days no benefits were paid out to eligible recipients. After some discussion with the Department of Agriculture, \$50 million was released last week. However, for my State, a \$50 million appropriation means only \$101,000, barely enough to carry the program through October 31.

I have now learned that the Department of Agriculture has received clearance from the Office of Management and Budget to release another \$38 million to States and to allow the reallocation of carryover funds for the duration of the continuing resolution.

Officials in my State have told me that they will require approximately \$268,000 to fully fund the program through November 20 including the \$101,000 already allocated. I am concerned that the additional steps by the Department of Agriculture will not be sufficient to fully fund the Delaware program for the remaining 3 weeks.

There is no good reason why Delaware WIC recipients should have to lose their benefits. Congress appropriated sufficient funds. The continuing resolution was passed October 1. Congress has made it clear that the WIC program should be maintained at current caseloads.

Playing budget politics with the WIC program is not excusable. Women and children with nutritional needs should not do without food while the Office of Management and Budget and the Department of Agriculture decide how they can spend less money for this program.

I am pleased that the committee has approved \$973 million for this cost-effective program. Both the House and Senate have rejected the administration's request for only \$653 million for WIC. Recent studies have shown the WIC program to be extremely cost-effective by reducing diseases attributable to malnourishment. WIC is limited to those who need it the most. Participants must be both low-income and be determined by a medical professional to be a nutritional risk.

I think it should be pointed out that all who are eligible are not being served. In Delaware there are insufficient funds to serve any children above the age of 2. We cannot even include them on the waiting lists. The program is targeted to those that need it most, that is, pregnant and nursing mothers and infants. For the administration to claim that non-needy persons are being served by the program is not correct.

I am heartened by the committee's actions and by the statements of my colleagues on the floor on this important issue. I hope that the administration will stop trying to cripple WIC by the use of budget deferrals or by delaying the appointment of WIC funds to States. ●

Mr. BAKER. Mr. President, I know of no further amendments.

Mr. EAGLETON. There are no further amendments that I know of on the Democratic side.

The PRESIDING OFFICER. Are there any further amendments? If there are no further amendments, the question is on the engrossment of the amendments and the third reading of the bill.

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

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is, Shall the bill pass? The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Oklahoma (Mr. NICKLES), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from South Carolina (Mr. THURMOND), the Senator from Utah (Mr. HATCH), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

Mr. CRANSTON. I announce that the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Rhode Island (Mr. PELL), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

On this vote, the Senator from Washington (Mr. JACKSON) is paired with the Senator from Rhode Island (Mr. PELL).

If present and voting, the Senator from Washington would vote "yea" and the Senator from Rhode Island would vote "nay".

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

The result was announced—yeas 69, nays 15, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—69

Abdnor	Burdick	Denton
Andrews	Cannon	Dixon
Baker	Chafee	Dodd
Baucus	Chiles	Domenici
Bentsen	Cochran	Durenberger
Biden	Cohen	Eagleton
Boschwitz	Cranston	Ford
Bradley	D'Amato	Glenn
Bumpers	Danforth	Gorton

Grassley	Lugar	Quayle
Hart	Mathias	Rancho
Hawkins	Matsunaga	Riegle
Hayakawa	Mattingly	Rudman
Heinz	McClure	Sarbanes
Huddleston	Meicher	Sasser
Inouye	Metzenbaum	Simpson
Jepson	Mitchell	Speier
Kassebaum	Moynihan	Stennis
Kennedy	Murkowski	Stevens
Laxalt	Nunn	Tower
Leahy	Packwood	Tsongas
Levin	Percy	Warner
Long	Pryor	Williams

NAYS—15

Armstrong	Exon	Pressler
Boren	Garn	Proxmire
Byrd	Heflin	Roth
Harry F., Jr.	He. ms	Symms
DeConcini	Humphrey	
East	Kasten	

NOT VOTING—16

Byrd, Robert C.	Jackson	Thurmond
Dole	Johnston	Wallop
Goldwater	Nickles	Weicker
Hatch	Pell	Zorinsky
Hatfield	Schmitt	
Hollings	Stafford	

So the bill (H.R. 4119), as amended, was passed.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table is agreed to.

Mr. COCHRAN. Mr. President, I move that the Senate insist on its amendments to H.R. 4119 and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. COCHRAN, Mr. McCLURE, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. MATTINGLY, Mr. SPECTOR, Mr. HATFIELD, Mr. EAGLETON, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. CHILES, Mr. BURDICK, Mr. SASSER, and Mr. PROXMIRE conferees on the part of the Senate.

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

Mr. BAKER. Mr. President, I take this opportunity to extend my congratulations to the distinguished Senator from Mississippi (Mr. COCHRAN) for an expert job in the management of an important piece of legislation.

I have been advised that this is the first major bill—perhaps the first bill—the Senator from Mississippi has managed since he came to the Senate. I mentioned that to him, and he reminded me that it is also the first bill he has managed since he came to the House, because the Republicans were never in the majority in the House during his tenure there.

I compliment him on the quality of the management of this bill, because it was expert indeed. I take this opportunity to extend to him my congratulations and my appreciation of a job well done.

Mr. COCHRAN. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be

a brief period for the transaction of routine morning business, to extend not past the hour of 3 p.m., in which Senators may speak for not more than 5 minutes.

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

ADDRESS BY WORLD BANK
PRESIDENT CLAUSEN

Mr. MATHIAS. Mr. President, several weeks ago financial leaders from around the world gathered here in Washington for the annual meeting of the World Bank and International Monetary Fund. The discussions focused on ways to revitalize the global economy—to restore noninflationary growth in both developing and developed countries.

The two most important statements on that critical subject were made by two persons who have never before served in an official capacity at a Bank Fund meeting: The President of the United States, Ronald Reagan, and the new president of the World Bank, A. W. Clausen. President Reagan's excellent speech affirming his support for the Bank and the Fund was placed in the RECORD earlier, and has received considerable attention. I wish to call Mr. Clausen's speech to the attention of my colleagues as well, because of the great importance his views have for the future economic development of all countries.

Mr. Clausen, who knows a thing or two about banks, reported to the stockholders that he finds the World Bank to be in excellent financial condition and to be a "unique and immensely productive development institution." Too often we forget that the Bank exists because of the mutual economic interests of the developed and developing countries. Mr. Clausen emphasized that "neither can prosper fully unless both prosper." The U.S. economy is increasingly dependent upon trade with developing countries. The Bank, by fostering economic development, contributes to our Nation's economic growth as well.

The World Bank cannot do the whole job of development, of course. The primary responsibility lies with each country to follow sound economic policies.

In a time of scarce capital and high interest rates, it is especially important that all the development-supporting institutions work together. As Mr. Clausen pointed out, if multilateral, bilateral, the private sector, and various specialized groups, "could be linked into closer and more effective cooperation, then the possibilities for greater progress would be substantially improved." The Bank will increase its efforts to cofinance development projects with commercial banks. Mr. Clausen reports 40 projects amounting to \$3.5 billion in the past 2 years.

Mr. Clausen set forth the priorities for World Bank financing in the years ahead: Agriculture, energy, and sub-Saharan Africa. Few will quarrel with those priorities, although the specific instrumentalities may still be open to discussion.

I was especially pleased to note Mr. Clausen's very strong support for the International Development Association.

IDA provides loans on concessional terms to the poorest countries. IDA-supported projects go through the same vigorous analysis as other Bank projects, and yield the same high rates of economic return.

The World Bank president sums up the case for IDA in terms which every citizen of the United States ought to ponder:

IDA alone cannot make the world peaceful. But it can help countries containing half of the world's population—cost of it very poor—to achieve greater self-reliance, and greater social cohesion. And that is clearly in the national self-interest of the developed nations.

Mr. President, Mr. Clausen's address, delivered on September 29, 1981, is available free of charge from the World Bank, so I will not burden the public purse by having it reprinted here. I do urge my colleagues and the general public to obtain a copy and study it. They can do so by writing to the World Bank, 1818 H Street NW., Washington, D.C. 20433, or by telephoning (202) 477-1234.

THE "ALASKA EAGLE"

Mr. STEVENS. Mr. President, I am pleased to report to the Senate regarding the status of the *Alaska Eagle* in the Whitbread Around the World Race.

On May 18, 1981, the Senate unanimously passed Senate Resolution 135, a resolution commending the *Alaska Eagle* and her crew for participating in this prestigious and world renowned race. The *Alaska Eagle*, her skipper Neil Bergt and his crew began the race on August 29, 1981. On October 10, 1981, the *Alaska Eagle* arrived safely into port at Cape Town, South Africa, thus completing the first leg of the 26,000-mile Whitbread Race. The *Alaska Eagle* was the fifth boat into port out of a total of 28 competing yachts. England's Royal Naval Sailing Association, the coordinator of the race, announced that the *Alaska Eagle* had finished in fifth place as well in the overall handicap ranking.

During the course of the first leg of the race, six boats experienced mast or rigging failure and one boat was forced to withdraw. It is therefore with utmost pleasure and with considerable pride that I congratulate Neil Bergt, the distinguished skipper of the *Alaska Eagle*, and his crew upon their successful completion of the first part of the most challenging yacht race and wish them speed and safety during the second leg of the race which is scheduled to begin Saturday, October 31, 1981, from Cape Town, South Africa to Auckland, New Zealand.

DEPARTURE OF CANADIAN AMBASSADOR TOWE

Mr. BAUCUS. Mr. President, it is with regret that I rise today and refer to the departure of my good friend, Canada's Ambassador Peter Towe. It is our great loss that Ambassador Towe, after over 4 years of so ably representing our great neighbor, has chosen to return home to assume new, and enormously important, responsibilities in the energy field.

Ambassador Towe has provided great insight to our relations and has ably and vigorously defended Canadian interests. But most important, he has been fair and judicious as a good diplomat should be, and has directed his efforts at resolution of problems rather than at their creation. His knowledge and patience with the vagaries and eccentricities one finds on this side of the border are to be admired. Indeed, he has handled with skill and perspective the complex task of representing a country so close to ours, and has provided his country with talent at a time when talent was much needed. Ambassador Towe has had to grapple with many new elements of dealing with the United States, not the least of which has been the growing congressional feistiness in foreign affairs.

We shall miss him, and I bid him farewell with all best wishes in his new endeavor. I know we have not seen the last of Peter Towe, and I look forward to the next time. I just hope it is soon.

Mr. President, Ambassador Towe recently spoke in his usual thoughtful and fair way to the Carnegie Endowment and the American Foreign Services Association. I want to share these words of quiet wisdom with my colleagues, and therefore, I ask unanimous consent that the text of his address be printed in the RECORD.

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

ADDRESS TO THE CARNEGIE ENDOWMENT AND AMERICAN FOREIGN SERVICE ASSOCIATION
"FACE TO FACE LUNCHEON"

(By Peter M. Towe)

The first words I have for you today are not my own. However, in tone and in content, they are very familiar.

"The relations of few countries are as intimate and important as those between Canada and the United States. They loom far larger in the eyes of a Canadian than of an American. That is natural. . . .

" . . . It may be expected that the relations between the two states will become increasingly important and that the problems arising therefrom will grow in magnitude."

Those must be the sage observations of a Canadian political figure, you might conclude. Or of an Ambassador to the United States.

They are.

Lester Pearson—who, of course, was both. And what might be illuminating to you is that they are from a letter he wrote in January 1932.

You know, Canadian Ambassadors have been saying that sort of thing for as long as there have been Canadian Ambassadors here. Because it's true. We are two nations sharing a continent. We share prosperity; fears; and many values. We also share a great deal of history. Some of this history is not at all about sharing.

I enjoyed the festivities celebrating the 200th anniversary of the battle of Yorktown earlier this month. I was the one at the ceremony thinking that the American victory at Yorktown made superfluous General Washington's plan for another expedition in 1782 or 83, this one of enormous strength, to take Canada.

I was thinking, as your President exchanged toasts with President Mitterrand, of how Canada fitted 200 years ago into that triangle. The French did, of course, support the American Revolution against their English enemies. The Congressional leaders in fact expected their French allies to invade

Lower Canada. But the French did not attack Canada. The official explanation was that the first priority was to assist the Americans to liberate the colonies in the Southern part of the continent. The actual policy of Versailles was to leave Canada in the hands of the British so as to drive the newly independent state into friendship and expanded trade with France.

To a large extent, French policy was foiled. General Washington, in peace negotiations with the British asked that Canada be ceded to the U.S. which, if the request had been taken seriously, would have enabled you to spend this lunch hour listening to someone else. It wasn't, but the British concessions to the new republic were meant to counter French influence—and they were made to a large extent from what eventually became Canada. Such was—and remains—the rather seamy stuff from which history is shaped.

Canada. Not yet a country. Still a colony. But with a growing number of inhabitants of many different kinds. Whose own views were mixed—Canadians in fact fought on both sides at Yorktown—and naturally, were not considered by these big powers.

Who were they? They were original French-speaking habitants. Still resentful of the British conquest but determined to survive culturally. Then, the Loyalists to the British Crown, many in fact refugees from the Revolutionary War to the South. And there were others—in Montreal, particularly—who had been impressed by the philosophical values of the American Revolution.

In a Canadian way, these values worked their way into our own nation-building process, and became the basis of the political values we share in common, even if our political systems are in so many ways quite different.

Indeed, that nation-building process goes on today. Its effects, stemming from the very fact that we are different nations, seems to be what the present fuss in Canada-U.S. relations is all about. But its description is not so different from what Lester Pearson sensed 50 years ago.

My first posting to the Canadian Embassy here came at a time of unprecedented cooperation between us. We worked together even when the issues were difficult, through such huge undertakings as the construction of the St. Lawrence Seaway. Also, at that time, having years before dropped our defences against each other, we joined in defence against others, through the creation of the Permanent Joint Board of Defense in 1940 which led after the war to the Pine-tree Line and the Dew Line, and eventually to join defence of the continent through NORAD.

During my next posting in this city, a decade and more ago, the mood was dramatically different. The U.S. was briefly and aberrationally in trade deficit with Canada. The measures taken in 1971 to protect the American dollar, measures which had a grievous, and disproportionate effect on Canada, were not the object of any prior consultations. Canadian pleas that account be taken of our historically special relationship with the USA went unheeded.

This is, I suppose, a contradiction, but it is one Canadians are used to. You were much bigger and stronger and could speak of retaliation much more credibly than we could. As my historical reflections today indicate, we in Canada are aware that it was ever thus. Successive Administrations here have had, perhaps, a shorter-term view of what's been going on. There is after all a tendency here to think that history re-begins every four years.

I don't mean to suggest that as Ambassador here, or earlier, as an officer in our Embassy—where, incidentally, I've spent almost half my working career—I've been stewing in the acid of 200 years of accumulated grievance.

Far from it. Most of my time has, in fact, been spent on the things we've worked out together, in the development since the war of the most complex, and concentrated relationship which exists between any two nations.

I recall those very creative post-war years when international institutions emerged from a common sense of hope or of peril. The resolution among the three countries which had cooperated in developing the atomic bomb to see atoms used henceforth only for peace; the founding of the United Nations; and when the Cold War shocked us all into insecurity again, the creation of the Atlantic Alliance.

In these experiences, our common and enduring view of the world's perils became shaped. It became natural for Canada to think of itself as an ally of the U.S.; in responding to Secretary Acheson's special plea to send ground troops to Korea; in Canada making a special effort to respond to the Suez crisis, where Canadians could play a peacekeeping role from which the larger powers were disqualified, in a sort of complementary to U.S. big power leadership—and one which at that time kept the good relations between the U.S. and the U.K., as well as France, on the rails.

So I preface my remarks by taking a long view. Not of antagonism. But of history, the history of two nations, each, in its way, pursuing its own aspirations.

And now I turn to today.

We are told that relations between Canada and the United States have entered a difficult and dangerous phase. Americans in both the public and private sectors bewail the so-called new nationalism of Canadian government policies. In Canada many complain loudly about recent American statements, describing them as alternately patronizing or imperialistic. Looming over all the rhetoric is the perception on both sides of the border that we are locked into an inescapable spiral of retaliation and counter-retaliation, to the eventual disadvantage of both countries.

A dramatic picture—but is it accurate? I think not. It exaggerates current tensions in a few areas at the expense of an overwhelmingly positive relationship and it implies that until recently the bilateral relationship was devoid of substantive issues and difficulties.

Quite frankly, relations between Canada and the United States are always delicate.

It is not hard to see why. Interdependence is the watchword of the present age. Academics describe it, politicians espouse it, and the common man confronts it in his daily life. Imports and exports, balance of payments, the value of the dollar, the shock of escalating energy prices—we have all become part-time international economists. The lesson is clear to us all—no nation's economy is a secure fortress. We must struggle to find accommodations with our economic partners or we will all suffer.

For Americans this is a relatively recent experience. To Canadians this "modern reality" has been a feature of our national life for generations. We have had historically to be more sensitive than most to the economic policies of foreign governments. At the present time fixed U.S. capital investment in Canada is greater than in any other country, as is Canadian investment in the U.S., where we are the third largest source of foreign investment. Trade between our two countries totals almost (Can) \$100. Billion annually.

It is important, I believe, not to over stress the negative. It is not surprising to me that many commentators express real anguish over what they perceive to be a deterioration in our bilateral relations. After all, for many years relations between Canada and the U.S.A., as countries and, more importantly, between Canadians and Americans as individuals, have been warm and genuine. There is an easy familiarity between our two coun-

tries which is, perhaps, unequalled in the world. In fact, the similarities between us are so great that we often overlook the differences which make us distinct. And we do so at our peril. Our strength as nations depends not only on our shared qualities but also on those qualities which are unique and lend variety and richness to our national lives.

It is not an easy task to specify these differences: some are very obvious while others are rather abstract and difficult to define with precision. I do not want to provide an exhaustive list for you, but I would like to suggest a few items which contribute to a deeper understanding of Canada.

Our geography and population. Although Canada is larger in area than the U.S., we have a population only one-tenth as large, and almost all of it located within 100 miles of the frontier with the U.S. These facts create special problems such as the vast transportation and communications systems which must be maintained in support of a relatively small economic market.

Our bicultural and bilingual identity, the fact that Canada has two founding cultures and official languages—French and English—creates special national riches but also special and unavoidable costs.

Our federal political system. Canadian provinces exercise jurisdiction over social and economic sectors to a much greater extent than the individual states in the U.S.A. The Canadian federal government's powers are correspondingly more limited than those of its American counterpart.

These, and other factors taken together have created a distinctively Canadian political culture, a blend of our respect for and dedication to free enterprise and individual initiative with our recognition that government involvement in the economic, social and cultural life of Canada is demanded by the imperatives of our national heritage.

Canadians expect their governments to develop and execute policies which are responsive to their needs and interests. This expectation, by itself, is not unique. Americans also expect their governments to pursue policies which maintain national security, encourage social and political stability and promote economic prosperity. Bluntly put, Canadians and Americans look to their governments to articulate and defend their respective national interests.

And this is as it ought to be. To demand otherwise would be foolish and unrealistic. But it is not the end of the matter for the term "national interest" is infinitely elastic and can be stretched to justify almost any action. Therefore, Canadians and Americans make an additional demand on their governments which reflects their shared belief in democratic political principles—we demand that our governments pursue our national interests in a responsible manner.

When we look at foreign policy we see that responsible governments adjust their policies to suit changing circumstances. This is not opportunism or cynicism; rather we must continually make judgements about how best to pursue our national interests in a manner consistent with our international obligations and responsibilities. At times we must summon up the national will to act boldly while at other times prudence and patience provide the sternest tests of our national resolve.

It is balance we seek and, when I reflect on over three decades of personal involvement in the Canada-U.S.A. relationship, I am struck by the balance we have achieved in the management of this relationship. I cannot think of two other countries which have so effectively pursued their national interests in such a harmonious and mutually beneficial way.

I am deeply troubled, therefore, by the recent charges in the United States that Canada has embarked on a new—and dangerous—course of economic nationalism. Na-

tionalism, I hasten to add, is not used by those making the charge as a neutral description of the reasonable pursuit of national interest. No, we are speaking here of a nationalism which conjures up images of folly, irresponsibility and anti-Americanism. It is our emotions which are being appealed to—not our reason. Against the backdrop of such a long and fruitful bilateral relationship, I find the invocation of the term "nationalism" entirely inappropriate.

When the United States government argues (as does Canada) in favor of fair international trading practices, it does so because it believes such practices benefit the U.S. economy. Similarly, when the Administration and Congress state they will pursue fair trading practices, even if it means "getting tough" with trading partners, they do so because they believe this is necessary to achieve vital national objectives. There is nothing wrong with this: indeed, it would be exceedingly odd if the U.S. government pursued policies which it believed were inimical to American national interests. But we should not delude ourselves into thinking that pursuit of these interests, however reasonable they may be, is cost-free; voluntary restrictions on automobile exports may be a necessary element in the revitalization of the domestic automobile industry, but they do impose a cost on Japanese producers. There have been, and continue to be, debates within the United States on the best ways to pursue trade objectives and yet, throughout these debates, I cannot recall a single reference by any of the participants to the new "nationalism" of the United States Government, not even when such blatant acts as buy-American legislation are enacted by the Congress or, increasingly, by State governments. Perhaps it is the case that one nation's "nationalism" is another nation's "patriotism".

The point is that labels, by themselves, are not really helpful and may even prove damaging. We should be prepared to look behind the labels if we wish to gain a richer understanding of each other. All nations—even Canada and the United States—make mistakes. When we do we expect you to point them out; I know we do not hesitate to point out your mistakes to you. If we cannot resolve our problems through bilateral discussions we have recourse to multilateral instruments such as the GATT, instruments we both helped to create and continue to sustain.

Historically, we have acted responsibly towards each other and we can continue to do so if we do not lose our nerve. It takes political courage to exercise patience, to calmly assess the costs and benefits of foreign policies. In the United States, President Reagan has embarked on a dramatic economic program. Its success will be vital to the recovery of the global economy. We know the measures will take some time to work through the economy and so we have refrained from excessive criticism of the program for its short-term consequences, such as high interest rates, which have a dramatic impact on Canada. Similarly, Canada's National Energy Program has as its primary objectives the achievement of energy security and, by 1990, providing for ownership by Canadians of 50 percent of our own oil and gas industry. Surely few Americans will find these goals objectionable. The Program's measures are designed not to punish foreign investors but to encourage Canadians to invest in the energy sector and to bear the costs necessary to achieve national energy objectives. Some have taken issue with the means. But it is by now I hope clear, that Canada has and will continue to implement this policy in a manner consistent with our obligations to you and our other economic partners.

If the program works—and we believe it will—Canada will be off the world oil mar-

ket by the early 1990's. This clearly serves not only Canadian interests but also global interests. Your economic recovery program and our National Energy Program are bold policies designed to meet extraordinary circumstances. Both governments agree and support the long-term objectives of both programs; we must avoid allowing our short-term anxieties to thwart the achievement of those objectives.

I also want to touch on another Canadian policy which has been frequently criticized. I want to demonstrate that this policy, once it is understood, is a most reasonable response to a difficult and precarious situation. I refer to Canada's policy on foreign investment.

Canada is a major importer of capital. Throughout our history we have actively sought foreign investment and created the domestic conditions which make Canada so attractive to investors from abroad. We would not have achieved, nor could we maintain, our high standard of living without major infusions of foreign investment capital. We have not pursued this policy for selfless reasons; we do it because it serves our interests. Similarly, foreign investors find Canada an attractive country to invest in because they make a profit. Foreign capital investment, like domestic investment, demonstrates the free enterprise maxim that pursuit of private benefit contributes to the public good.

But this is not holy scripture. All modern nations recognize that the marketplace is not perfect and some government role is necessary if market imperfections are to be prevented from becoming gross economic distortions. Antitrust laws, for example, are not predicated on the simplistic notion that big is bad but rather on the hard economic evidence that monopolies can stifle competition, encourage inefficiencies and lower general economic performance. Where natural monopolies are necessary, as in the utilities sector, we regulate them to ensure they operate in the public interest.

Foreign investment is not exempt from this type of scrutiny; if any thing, there is greater public demand in this country for your government to become involved in foreign investment issues. And the demand increases in direct proportion to increases in the level of foreign investment. To be sure, some of the complaints reflect little more than xenophobia, a belief that foreign investment is, by virtue of its origin alone, undesirable. But there are grounds for some serious worries as well. For example, are head offices in foreign countries sufficiently sensitive to domestic realities? Do they offer domestic companies a fair opportunity to bid on branch plant procurement? Or do they purchase goods and services from traditional sources located near the head office? Do decisions about corporate marketing and investment made on a global scale ignore domestic concerns such as the desire to raise the level of research and development activities of branch plants? Are subsidiaries subject to the extraterritorial application of foreign laws?

Successive Canadian governments had to face these issues at a time when foreign investment had risen to extraordinarily high levels and there were real fears in Canada that control of the economy was in foreign hands. We could have chosen to ignore this, but that would have allowed the legitimate concerns of Canadians to fester and, perhaps, explode in an unpredictable manner at some future time. It could have chosen to drive out foreign investment, even though this would have damaged severely the Canadian economy. Instead, in 1974, the government chose to steer a middle course between the two extremes of inaction and over-reaction—it established a mechanism to screen new foreign investment in Canada.

Canada requires foreign investors to demonstrate that their investment proposals confer "significant benefits" on Canada. Is this an irresponsible demand? I think not. Of course, our screening mechanism is not perfect—not everyone, even in Canada, believes it is necessary. No mechanism created by government and implemented by bureaucrats can or should claim omniscience. But minor difficulties should not be used to destroy the reasonable objectives of the policy. Canada will continue to need vast amounts of capital beyond our own ability to save; by reassuring Canadians about the economic benefits of foreign investment, the government ensures that Canada remains an open and hospitable environment for foreign investors.

I've spent a lot of time lately explaining Canadian positions but in doing so I don't want to imply that the U.S. has a monopoly on grievances—far from it. I have already referred to the proliferation of "Buy America" legislation, but there are other trade issues such as the DISC legislation where Canada has serious disagreements with American policy. On investment issues, the Jones Act and the Communications Act among others prohibit or strictly limit foreign investment in certain sectors. You too have notable exceptions to the principle of national treatment. Perhaps I don't need to recall that there was deep disappointment in Canada at the failure by the Senate to ratify a treaty which would have created an equitable joint management scheme for our East Coast fisheries. As for the environment there are a number of areas where we must develop cooperative programs if we are to avoid the destruction of irreplaceable resources in both countries. These problems—ours and yours—will not be solved by mere finger-pointing, much less exaggerated claims and counter-claims. We must strengthen our commitment at the highest level to finding appropriate solutions.

Now let me conclude by trying to project a bit into the future. I believe that your President struck a very appropriate note when early on, he stressed the importance of establishing an accord with his northern and southern neighbours. By that I don't mean—nor I think did he—that we had to build new institutions into the relationship or to depart from the multilateralism which has shaped our respective foreign economic policies. I can't speak for your President, but what I think we need to strive for is to accord to each other the respect we are due as sovereign nations.

You have global responsibilities beyond the reach of my or other foreign democratic governments and we have, historically, supported you and will continue to do so whenever possible. Indeed I venture to say that the level of understanding and support given the United States by Canada is unequalled by any other nation. We do so not out of any sense of altruism, but because of shared values and common perceptions of the world and what we want to achieve. Economically we support you as well, again not out of a sense of altruism, but as a natural outcome of the intermeshing of our economies. Canada historically runs an overall balance of payments deficit with you and this contributes to offset the imbalance you face with other countries. In turn, you are the main means of our defence, our vital market and the source of our much-needed investment capital and technology. It is a mutually rewarding relationship.

What we need to ensure is that it remains so. Early on in my remarks I noted that we are still in the process of nation-building. And that is so and will be so for many decades to come. We need space to work out our problems—to forge our destiny. Obviously I don't expect the U.S. to do other than protect and advance its interests with us as this

process occurs. In the current crisis, however, if crisis it is, I do expect you to take the longer view and to accord to us the respect that is due us—recognition of our differences and of the right, even the desirability of following different paths when national interest dictates. Thank you.

TENNESSEE-TOMBIGBEE WATERWAY

Mr. PERCY. Mr. President, the Congress is being asked again by the administration to tighten the budget by reducing Federal expenditures. I agree that a balanced budget is a vital goal, and am supporting the President's efforts to achieve that goal.

As we renew our efforts to balance the budget, however, there remains one project that richly merits close scrutiny. The project is the Tennessee-Tombigbee Waterway. Remarkably, this project has escaped largely unscathed in prior budget-cutting efforts. Indeed the appropriation sought for the project this year alone equals \$189 million, and if current cost projections are accurate, it will require an annual appropriation of roughly \$200 million for the rest of this decade.

This is an enormous commitment of Federal dollars for a program of such dubious value to the region and the country. It is particularly enormous at a time when this country is struggling to cut back everywhere it can in order to balance the budget.

Nevertheless, being a strong supporter of our Nation's inland waterway system, I would be willing to support such an allocation if this project were meritorious. Unfortunately, it is not. It has been characterized for years as a boondoggle of the first order.

The Tenn-Tom concept has always been suspect—it attempts to parallel the Mississippi River with a waterway that is narrow and restricted by 10 separate locks. But several developments during the last 6 months have demonstrated conclusively that the project should not be built.

First, the General Accounting Office has examined the project at my request, and has issued a report which concludes that the project will create a bottleneck on the Tombigbee River which will require nearly another billion dollars to unscramble. This conclusion has been confirmed by the Corps of Engineers in its recent draft "National Waterways Study," which makes correcting the bottleneck a national priority between now and 1995. Thus it is obvious that total project costs will exceed \$3 billion.

Second, the GAO also examined the predicted benefit base for the project and found that over 75 percent of those benefits have not materialized. Thus, there is a serious question whether the project, if built, will carry sufficient traffic to justify the investment.

I am today asking unanimous consent that portions of the GAO report which address these points be printed in the Record. In addition, I am asking unanimous consent that relevant portions of the "National Waterways Study" also be printed.

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

TO CONTINUE OR HALT THE TENN-TOM WATERWAY? INFORMATION TO HELP THE CONGRESS RESOLVE THE CONTROVERSY

The Tennessee-Tombigbee Waterway continues to generate controversy. Ten years and \$1.1 billion have been spent on construction of the project, which will link the inland waterway system with the Gulf of Mexico. Project costs are estimated to total about \$2 billion when the project is completed in 1988.

GAO believes two key issues in the decision to halt or complete Tenn-Tom are:

Although more than \$600 million would be saved by halting Tenn-Tom, that saving must be weighed against the loss of about \$125 million in average annual benefits expected from the completed project. Average annual benefits achieved to date are roughly \$12 million.

Completing Tenn-Tom will create a bottleneck on the waterway south of Demopolis, Alabama. Eliminating the bottleneck would cost about \$960 million—\$323 million for construction (Oct. 1979 dollars) and \$637 million for inflation to the end of the estimated construction period in 1997. Continuing Tenn-Tom may be sowing the seed for this additional project.

Question: Have any of the predicted 1980 movements materialized?

Answer: The majority of the 17 movements we reviewed have not materialized,¹ although some company officials stated that they could potentially use Tenn-Tom when it is completed. The Corps' position on inclusion of movements in the benefit data base, in essence, is that (1) the purpose of interviews is to establish base year traffic, not to determine future prospects of a specific firm, and (2) some firms, over a period of 5 years, will go out of business but will be replaced by other firms. Further, the Corps considers such benefit studies to be a "snapshot in time."

The Corps also pointed out that shippers not included in Kearney's study have expressed interest in the waterway and that new movements not in the traffic base have been identified. We identified several companies not included in the traffic base that could potentially use the waterway, but we did not determine specific commodities or tonnage amounts.

However, since over 50 percent of the movements we reviewed have not occurred as projected by Kearney, their estimating practices may have been too liberal. To accurately determine this would require a thorough analysis of the Kearney study or possibly a

¹ We reviewed only those movements that were moving as of 1975 or expected to be moving by an alternate transportation mode by the end of 1980.

new benefit-cost study. Either option would involve lengthy studies—possibly longer than 1 year.

We selected 17 of the largest movements, representing \$77.5 million of the \$116.6 million in average annual navigation benefits included in the fiscal year 1982 budget request, and 16.1 million tons, or 57 percent, of the projected 1986 tonnage for additional review. Kearney had classified 11 of these movements as current; that is, already moving by an alternate mode at the time of its study in 1975, and 6 as future movements that were expected to materialize by the end of 1980. It was anticipated that all 17 of these movements would utilize Tenn-Tom when it opens.

None of the six future movements had materialized by February 1981. Of the 11 current movements, we could not locate one company to confirm the information contained in the Kearney file and were told by officials of one other company that the movements had not occurred. In a third instance a company official told us that the movement has not occurred since 1975. Finally, one movement, while occurring, is expected to cease before Tenn-Tom opens for full navigation in 1986. We were unable to determine from Kearney's workpapers the basis for classifying the movement which has not occurred as actually moving in 1975.

A summary of these movements is presented below.

Status of movements	Number of movements	Projected 1986 tonnage	Percentage of projected 1985 tonnage	Projected average annual benefits ¹	Percentage of average annual benefits ¹	Percentage of total of sample size	
						Number of movements	Dollar value of movements
Occurring.....	6	4,282,000	15	\$14,895,000	13	35	19
Occurring but expected to stop before Tenn-Tom opens.....	1	601,000	2	843,000	1	6	1
Have not materialized.....	9	10,593,000	38	59,550,000	51	53	77
Shipper/receiver could not be located.....	1	593,000	2	2,220,000	2	6	3
Total.....	17	16,069,000	57	77,508,000	67	100	100

¹ Average annual benefits are based on the corps' fiscal year 1982 budget submission for Tenn-Tom.

Movements which are occurring:

In early 1981, 6 of the 17 movements, totaling 4.3 million tons of the projected 1986 tonnage and \$14.9 million of the 1982 average annual navigation benefits, are being transported via rail or an alternate waterway. The six movements are described below. (Tonnes shown were amounts used in the Kearney study.)

Three chemical movements, totaling 124,000 tons each, originate in Louisiana and travel to Mississippi. These movements are being transported via rail.

Two coal movements in the amount of 1 million tons and 300,000 tons² originate in Illinois and travel to Florida. These movements are transported via barge on the Ohio and Mississippi Rivers.

One 225,000-ton movement of metal is transported from Louisiana and south Alabama via barge on the Mississippi, Ohio, and Tennessee Rivers to north Alabama.

Movement which is occurring but expected to stop before Tenn-Tom opens:

The Kearney study included a 450,000-ton movement of metal from Alabama to Tennessee that is presently occurring at about half the tonnage rate Kearney used and is expected to stop before Tenn-Tom opens in 1986. Kearney's workpapers show that in 1975 a company official initially declined to estimate tonnage or speculate on movements that might move on the waterway because of available alternate supply points and changing supply-demand situations. The official later provided tonnage data but cautioned that the supply point for the Alabama-to-

Tennessee movement would change in 10 to 20 years (from 1975) and the movement would cease. The Kearney study included benefits for this movement from Tenn-Tom's opening in 1986 through 1991.

Company officials told GAO in April 1981 that this movement is presently occurring at about half the tonnage rate projected by Kearney in 1975 and that the movement will stop completely within the next 5 years. A company official said the movement to Tennessee will then originate on the east coast. This movement represents 601,000 tons of the projected 1986 tonnage and \$843,000 of the 1982 average annual navigation benefits.

Movements which have not materialized:

We identified nine movements which have not materialized, although company officials for four of the movements said they could potentially use Tenn-Tom when it is completed. These nine movements represent 10.6 million tons of the projected 1986 tonnage and \$59.6 million of the 1982 average annual navigation benefits. As discussed below, these movements have not materialized for various reasons. (Tonnes shown were amounts used in the Kearney study.)

A 1.2-million-ton coal movement from Kentucky to various locations in Alabama did not occur. The company recently filed for reorganization under chapter 11 of the Bankruptcy Act. This movement was predicated on the assumption that the company would open a mine in Kentucky, but the mine was not opened.

Another coal shipment from Illinois to Alabama has not materialized for two reasons. In 1976 the coal supplier informed the shipper that he could not supply the required contract amount of 1.4 million tons. Also, the receiver could not burn the high sulphur Illinois coal because of air pollution

concerns. This company is presently receiving its coal from Alabama mines.

A 1-million-ton movement of coal was based primarily on the opening of coal reserves in Tennessee. However, a company official said these reserves have not been developed and he would not state whether they will be developed. The official stated that he could not speculate on movements or tonnage that may move on Tenn-Tom; however, the possibility of using Tenn-Tom when completed does exist.

A 250,000-ton coal movement scheduled to move from Tennessee to Alabama has not taken place due to several business reasons. A company official would not elaborate on these reasons. He stated that the movement is still expected to take place and may be barged via Tenn-Tom, but he could not be specific about the expected date of the movement.

Kearney's study also included a 100,000-ton movement of chemicals from Alabama to Tennessee. A company official stated that this movement has not materialized due to changes in the company's long-range plans. The company, according to this official, had plans at the time of Kearney's study to build a plant in Alabama which would have provided easy access to Tenn-Tom. The official stated that, due to financial difficulties, the plant will not be built.

A 50,000-ton movement of a chemical from Minnesota to Mississippi has not occurred and a company official stated that she does not know whether it will. She also said that if Tenn-Tom were available, the company would use the waterway to barge chemicals from Florida to Alabama. Another official stated that the company is extremely optimistic that Tenn-Tom will provide new opportunities for this company. Neither official

² Contract amendment reduced the tonnage amount for this movement from 900,000 tons to 300,000 tons.

would attempt to identify specific movements or tonnage that may utilize the waterway.

A 287,000-ton movement of ore from Tennessee to Alabama did not materialize. A company official stated that movement of ore from Tennessee to Alabama is included in the company's long-range plans and will be barged via Tenn-Tom if the waterway is completed when the movement materializes. However, he would not speculate on the tonnage amount or the anticipated date that this movement could be expected to start.

A 100,000-ton coal movement and a 2.4-million-ton coal movement which originate in Tennessee and move to Alabama and/or Louisiana were included in Kearney's traffic base. These movements will not occur as the companies are no longer in business.

Information on the remaining movement was not obtained because the shipper/receiver involved could not be located to confirm the information contained in the Kearney file. The directory assistance and chamber of commerce in the city did not have a record of this company. This movement represents 593,000 tons of the projected 1986 tonnage and \$2.2 million of the average annual navigation benefits in the 1982 budget request.

Corps position on movements in Kearney study:

The Corps' navigation benefit estimate submitted to the Congress each year since 1976 has been based on the 121 movements identified by Kearney. In providing the Congress with the annual estimate of project benefits, the Corps uses the 121 movements without analyzing the current status of these movements. The Corps deletes only those movements, seven in the latest estimate,³ which no longer show the minimum savings after transportation rates are updated—whether a movement has or has not materialized is not a factor in these calculations. The Corps also does not add any new movements that have been identified. The Corps' position on including movements in the benefit base was presented in a September 1980 report by the Subcommittee on Energy and Water Development, Senate Committee on Appropriations:

"The purpose of interviews is to establish base year traffic which might use the Tenn-Tom. It is not a marketing study of the future prospects for a specific, given firm. It is fully to be expected that some firms, over a period of 5 years, will go out of business, and some will come in; and that specific plans and opinions may change."

The report also pointed out that shippers not included in the Kearney study have expressed interest in Tenn-Tom and new movements not in the traffic base have been identified.

The Department of Transportation in a June 1980 study predicted substantial growth in both the Nation's export coal market and in the amount of export coal handled by the Port of Mobile. Since Tenn-Tom will service some of the Nation's leading coal producing areas, it would be reasonable to assume that some of this increase would impact on Tenn-Tom. We identified potential Tenn-Tom users that were not included in the Kearney base, particularly coal shippers. However, we did not attempt to determine the quantities and potential savings for these shippers, since to accurately do this would require a lengthy and extensive effort.

While the "snapshot in time" is an acceptable framework for measuring navigation benefits, one cannot assume that the movements that do not materialize will be exactly offset by new movements. This becomes espe-

³The deleted movements can vary from year to year depending on changes in transportation rates. A movement could be deleted one year and reappear the next year.

cially critical when a few movements account for a large percentage of the benefits and they do not occur as projected, as was the case in the Kearney study. GAO believes when this happens the estimating practices may have been too liberal. Consequently, the study on movements would have to be completely updated to have a more recent and accurate picture of movements.

AGENCY COMMENTS AND OUR EVALUATION

In this section we have summarized the major comments made by the Army and OMB on the portion of our draft report covering issues for resolution by the Congress. Their complete comments along with our response are contained in appendixes II and III.

The Army stated that completion of Tenn-Tom does not force an additional related project. The Army noted that such a project would be a separate new investment decision based on study and Presidential and congressional action. The Army commented that preliminary indications from ongoing studies show that certain modifications could improve the efficiency of the waterway; however, prediction of a recommendation to the President and the Congress is highly speculative at this time.

According to the Army, if this recommendation is ever made, it will be based on the results of completed comprehensive studies demonstrating the merit of further investment. Also, the Army concluded that the economic justification in favor of project completion no longer can be fairly challenged, when justification is considered on a basis of remaining benefits to remaining costs, and that the project should be completed. Further, the Army said that our review and report certainly lead to no other conclusion.

OMB stated that the question of developing a new Federal project to expand the existing waterway from Demopolis to Mobile is unrelated to the question of completing the Tenn-Tom project. OMB noted that if that project were authorized by the Congress, it would be subject to the same policy review and competition for scarce budget resources as any other potential new water resource project.

While we appreciate and understand the Army's and OMB's position on expansion of the waterway from Demopolis to Mobile, we do not agree that it is unrelated to the question of completing Tenn-Tom. OMB and the Army are correct, as we have noted in our report, that such a project must be authorized by the Congress. However, we feel it is critical that the Congress clearly understand that the potential traffic on the Tenn-Tom Waterway now under construction will be severely constrained by the bottleneck south of Demopolis. Eliminating this bottleneck requires a project estimated by the Corps to cost \$960 million—\$323 million (Oct. 1979 dollars) for construction and \$637 million for inflation to the end of the estimated construction period in 1997.

We believe that if the decision is made to continue Tenn-Tom, it is likely that the Congress will be urged to approve the waterway improvement project from Demopolis to Mobile. The Corps' Director of Civil Works testified in July 1980 before the Subcommittee on Environment and Public Works, that in his opinion the improvements are likely to be needed within 10 years and the push is going to be immense. On the other hand, if Tenn-Tom is stopped, the present waterway is considered adequate for BWTW traffic through the year 2035.

We do not agree that our report leads to any conclusion one way or the other. We answered specific questions which were not designed to reach an overall conclusion on whether the project should or should not be completed.

[From the National Waterways Study, 1976-81]

SUMMARY OF RECOMMENDED NATIONAL WATERWAYS PLAN, 1981-2013

BACKGROUND

The National Waterways Study is the first major assessment of the waterways of the United States in 70 years. The plan developed covers work underway, new work needed now, and those improvements needed in the years ahead to meet projected needs beyond the year 2000. The waterways and harbors of the United States are not only one of America's greatest natural resources, but have become through 200 years of private and public effort, one of the greatest systems of commercial navigation in the world.

The need for a careful look at the waterways system from a national perspective stems from several conditions: (1) there are now a number of serious constraints to the efficient use of our principal waterways. These are set forth in the early action phase of the national waterways plan; (2) trends in world and U.S. trade, particularly in energy and agricultural commodities, will place American waterways under an added burden of traffic; (3) much of the navigation system is an old system and requires a systematic plan for maintenance and rehabilitation. Of the 184 principal locks, the average age is 40 years. Some are approaching 80 years of service. The National Waterways Study, with its emphasis on the existing system and its capability for meeting current and projected national requirements, is an outgrowth of the concern in the Congress, among shippers and waterway carriers, as well as in the U.S. Army Corps of Engineers, that plans for future waterways improvements are not based upon a comprehensive national framework appropriate for national transportation policy decision making.

ELEMENTS OF THE NATIONAL WATERWAYS PLAN

The National Waterways Study covers the shallow draft inland waterways, the Great Lakes, and the St. Lawrence Seaway, the coastal trade routes and the inland and coastal ports which serve this system. Emphasis in the study is on the inland waterways, including the Great Lakes. Needs at selected deep water ports are included in the plan on the basis of predominance in serving waterway traffic. National Waterways Study, Map No. 1, Existing Major Waterways and Ports of the United States, (attached) displays the present system. Map I-1 shows National Waterways Study reaches and analytical segments.

SUMMARY OF RECOMMENDED ACTIONS

A. Work under construction

- (1) Lock and Dam 26 (1st Lock), (Lower Upper Mississippi River).
- (2) Vermillion Lock (Gulf Coast West I).
- (3) Ouachita River Locks 6 and 8 (Ouachita River).
- (4) Tennessee-Tombigbee Project (Tennessee-Tombigbee River).
- (5) Red River Navigation Channel to Shreveport (Ouachita, Black Rivers).

B. New actions required, 1982-2013

58 locks (inc. A(1-3) above)	¹ Cost \$4,299
4 major channel deepening (inc. A (4) and (5) above)	1,996
3 deep draft ports	1,175
Rehabilitation	1,184
206 sites needing safety actions	1,051
Maintenance dredging	8,400
Operation and maintenance (non-dredging)	4,102
Total	22,207

¹Total cumulative in billion of 1977 dollars.

Lock actions

The capacity and reliability of lock structures is the controlling element in traffic

handling capacity for most U.S. waterways. By the year 2000, more than 75 U.S. locks on the actively used commercial waterways will be over 60 years old. They are rapidly becoming antiquated, the products of another technological era.

Recommended lock actions for each waterways segment are shown in Table I-1, classified in three time periods, and prioritized for each segment and time period on the basis of (1) primary controlling, or (2) secondary controlling.

Under the plan, 33 U.S. locks would be replaced or supplemented before 2003, the end of the period of analysis. During this period, eight Canadian locks of the Great Lakes-St. Lawrence Seaway system fall short of handling projected capacity. Still others were found to be congested as 2003 is approached. Those are identified as needing attention in Period III, 2004-2013. The 43 U.S. locks and 15 Canadian locks identified for action are shown on Map No. I-2.

Schedules of lock actions

The 43 U.S. locks identified in Table I-1 cannot be realized as needed unless assumed actions to reduce the historical mean time between study authorization and construction completion (24.4 years average) are incorporated into the plan. Consequently, in view of the national priorities used to develop this program, the lock and system interrelationships and the present status of each lock improvements, a program to reach construction completion was established. Figure I-2 displays the results of this programming, demonstrating when the lock was needed and when, under this program, it could be completed. Also displayed with dashed lines is the completion date under the projected mean historical time. This section discusses the assumptions applied to the scheduled development. The construction sequence by segment is depicted graphically in Figure I-3. The program discussed in the following paragraphs is organized by the three planning periods and by priority within the period.

Period I—Priority 1

(A) It is recommended that the following U.S. Locks be funded for construction and that necessary Advanced Engineering and Design (AE&D) and construction work be given priority status.

Second Lock at 26—Lower Upper Mississippi River.

Gallipolis—Middle Ohio River.
Demopolis—Tombigbee River.
Seven Illinois Waterway Locks.

The Illinois Waterway locks make up a closely interrelated system. Although the sequence of needed supplemental capacity is rather orderly, extending from Period I through Period III, the AE&D and construction should be funded for the system as a whole.

(B) A program of priority treatment resulting in expedited survey reports with minimal time programmed for all subsequent steps is proposed for three Period I—Priority 1 locks:

TABLE I-1.—NATIONAL WATERWAYS STUDY SUMMARY OF RECOMMENDED PROGRAM ACTIONS AND PRIORITIES SCHEDULED INITIATION:

UNDER CONSTRUCTION	
Segment	Action
Locks	
Lower Upper Mississippi	Lock and dam 26 (1st lock).
Gulf Coast West 1	Vermilion lock.
Ouachita-Black-Red	Ouachita locks 6 and 8.
New waterways	
Tennessee-Tombigbee	Tennessee Tombigbee project.
Ouachita-Black-Red	9 ft channel to Shreveport, La.

PERIOD I: 1982-95

PRIORITY 1

Locks

Lower Upper Mississippi (*)	Lock and dam 26 (2d lock).
Illinois (**)	LaGrange.
Middle Ohio (*)	Gallipolis.
Lower Ohio (**)	Lock and dam 52 and 53.
GIWW-E-1	Inner harbor.
Tombigbee-Mobile Bay (*)	Demopolis.
Great Lakes/SLS (*)	Welland locks.
St. Mary's	Sault Ste. Marie.

Channels

Tombigbee-Mobile Bay	Widen from Demopolis to Mobile.
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Deep Ports

Mid-Atlantic	Norfolk-Hampton Roads.
Do	Baltimore.
Mississippi	Baton Rouge to Gulf.

Safety

191 USCG actions nationally distributed.
15 USACE actions nationally distributed.

PRIORITY 2

Locks

Upper Ohio	Montgomery.
Lower Ohio	McAlpine.
Do	Uniontown.
Monongahela	3, 4, 7, and 8.
Kanawha	Winfield.
Columbia	Bonneville.
GIWW-W-1	Harvey.
Tombigbee-Mobile Bay	Oliver.

Channels

Ohio River	Deepening from mouth to Pittsburgh.
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Deep Ports

Unspecified actions

PERIOD II: 1996-2003

PRIORITY 1

Locks

Illinois	Peoria, Starved Rock, and Marseilles.
Upper Ohio	Emsworth.
Middle Ohio	Newburgh.
Tombigbee-Mobile	Coffeeville.

PRIORITY 2

Locks

Upper Mississippi	Lock and dam 22.
GIWW-W-1	Algiers.
Tombigbee-Mobile Bay	Holt.

PERIOD III: 2004-13

PRIORITY 1

Illinois	Dresden Island, Brandon Rd., and Lockport.
Tennessee	Kentucky.

PRIORITY 2

Upper Mississippi	Lock and dam 21, 24, and 25.
Middle Mississippi	Lock and dam 27.
Upper Ohio	Dashields.
Black Warrior	Bankhead.
Great Lakes/SLS	Seaway Locks.

¹ Initiation of action may be planning, advanced engineering and design or construction.

² Ordering reflects primary controlling (*) and secondary controlling (**) status for a lock as it relates to the national waterways system.

Channel modifications

The National Waterways Study plan identifies two shallow draft waterways for major channel modification: the Ohio River from Pittsburgh to the mouth, and the Tombigbee and Mobile Rivers from Demopolis to the Gulf.

The Ohio River deepening appears to be

an inexpensive engineering proposition. This action, with initial dredging in the range of 5 to 15 million cubic yards, or less if one or two pools are raised, has an estimated cost of \$100 million 1977 dollars. Additional maintenance dredging associated with the deeper channel would add one third to the present Ohio River dredged material volume.

From a transportation point of view, the determining selection factors in favor of deepening to provide a more efficient waterway were numerous. This deepening action will require careful studies of environmental effects, particularly in the littoral zones, mussel beds, water supplies and disposal of dredged materials. Also, private and public facilities, such as waterway crossings and terminals, will be affected. The Ohio River system ranks with the Lower Mississippi below Cairo as a "mainline" system. The Lower Mississippi has an authorized 12-foot channel that is available most of the year. Sixty percent of the Ohio traffic would be able to use depths without modification of other waterways. The system contributes significantly to three of the four national objectives. In fact it is forecasted to serve in excess of 55 percent of the domestic coal flow moving by water. Regarding economic efficiency, the action potentially could reduce the linehaul costs by 1.2 mills per ton mile. Applied to 100 billion ton miles of Ohio River traffic in year 2003 produces a saving of \$120 million annually in 1977 dollars. The Ohio River deepening is given a Priority 2 ranking in Period I. Although the economics are great, this system action is controlled by several lock actions which must be constructed first, therefore a Priority 2 was applied.

The Ohio River deepening should proceed after the locks at Gallipolis, 52 and 53, are replaced on the Ohio River. Before upstream deepening to Pittsburgh, Pa., can be completed, the locks programmed for replacement in Period III in that reach must be completed. The schedule displayed in Figure I-2 involves early action for planning the entire system. However the construction sequence would involve deepening the lower and middle Ohio first, followed by the second stage in Period III to Pittsburgh.

Early action to complete Period I Ohio lock construction and study the channel deepening should be pursued in view of the substantial potential system cost reduction associated with deepening. Even the program median time is too long for both locks and deepening. Therefore it is recommended for the Ohio River that timeline components be compacted for planning, design and construction. A risk analysis associated with extreme and more moderate sets of reduction measures should accompany this effort. The environmental risks from deepening would be a major part of this analysis.

Tombigbee-Mobile Rivers from Demopolis south were assessed for width modifications sufficient to serve an eight barge flotilla. The actions required are 16 cut offs and 28 bend or channel widenings. The contributing factors supporting the inclusion of this action are the value of the system to serve energy commodities for domestic use and export, the central location of the action within a system and interrelationships with systems capable of moving larger and more efficient tows, and finally the saving of one mill per ton mile for 29 billion ton miles of 2003 traffic. Also operational efficiency of locks, existing and programmed, would be enhanced by this action. Although this modification also served the safety objective, it is ranked as an efficiency action. The action is identified as a Priority 1 action in Period I because of the immediate positive contribution to system efficiency as well as safety. The first costs of this action are estimated in 1977 dollars at \$90 million, with associated maintenance estimated at \$170.-

000. Recognizing that construction would not be realized even under the median time line until 1990, the price tag would rise, given the assumption of only a modest 5 percent inflation rate beginning in 1982, to over \$210 million.

The Tombigbee-Mobile Rivers improvement is as much a safety action as an economic efficiency program. The widening will yield immediate returns as soon as it is completed. New equipment is not required nor is lock modification. The forecast traffic for this river reach exceeds 50 million tons in 2003, three quarters of which is coal. The median timeline is used in programming however. This will result in at least a doubling in nominal costs before the effort is begun. Therefore this schedule, too, must be carefully reassessed under a new accelerated timeline and an associated risk analysis.

A number of additional shallow draft channels were considered for deepening. These were screened using channel action criteria and were eliminated.

Upper Mississippi from Pool 26 through 12 was assessed for deepening to 10 feet. The screen responsible for its elimination was the environmental sensitivity of the segment.

The Upper Lower Mississippi between Cairo and the mouth of the Missouri River was evaluated based on a 12-foot depth. The increasing probability of inadequate future water flows due to higher priority water use on the Missouri River was the dominant factor in its elimination from the program.

Illinois Waterway from its mouth to Lockport Lock was assessed for deepening to 12 feet. Although the volume and national objective criteria weighed heavily in favor of its recommendation in Period III, the systems analysis link to the Mississippi River and the controlling decision not to recommend deepening on the Upper Lower Mississippi River, was the deciding factor in excluding this potential action.

Lower Upper Mississippi River (mouth of the Illinois to the mouth of the Missouri River) 12-foot deepening proposal was evaluated within the context of decisions made on the connecting river segments. Because of the decision on the Upper Lower Mississippi, it was therefore excluded from further consideration.

Table I-2 provides annual costs for shallow draft channel modifications:

TABLE I-2

Annual costs of recommended shallow draft channel modifications and action under construction during period I.

[In millions of 1977 dollars]	
Ohio River and Tombigbee Warrior...	\$13.6
New waterways under construction...	112.5
Other navigation under construction...	16.5
Total	142.6

Mr. PERCY. Third, the Congressional Research Service has recently concluded that the Tenn-Tom project will in fact be unable to compete with the Mississippi River to attract coal traffic. Since coal traffic is the prime justification for the project, the CRS study demonstrates that the project is a very poor risk indeed.

Because it is so important to show the futility of the project, I am asking unanimous consent that the CRS study be printed in today's RECORD.

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

FACTORS AFFECTING COAL TRAFFIC ON THE TENNESSEE-TOMBIGBEE WATERWAY

(By Duane A. Thompson)

The Tennessee-Tombigbee Waterway (Tenn-Tom) is a combination canal/river project which would link the upper Tennessee River with the Warrior River system and ultimately the Port of Mobile, Alabama. The waterway, which is being constructed by the Army Corps of Engineers, has been proposed as a shortcut for barge traffic that would otherwise take the longer, but generally parallel Mississippi River. One of the major justifications for its construction has been projected coal shipments over the waterway.

Proponents of the project have suggested that the Tenn-Tom would be a vital link for coal mined in the Midwest and moved to the Gulf ports for export, and for coal mined in the southern Appalachian areas for use by southeastern utilities. In addition, they claim that increased mining in such States as Tennessee and Alabama would contribute to the coal being shipped on the waterway. The completion of the Tennessee-Tombigbee project would increase the total coal-carrying capability of the inland waterway system.

Any congestion on other coal transportation corridors could be reduced by whatever volumes of coal are moved on the Tenn-Tom. The magnitude of these coal movements and the problems associated with moving the coal economically, however, have not been fully examined. Furthermore, there are other coal transportation modes and corridors that may present substantial competition for the Tenn-Tom.

Other benefits to the region could accrue from the waterway. Access to navigable waters could attract industry and bolster the local economy. This paper does not provide a complete evaluation of the Tenn-Tom waterway. It briefly examines the characteristics of present and projected coal movements on the Nation's other rail and waterways in comparison to those likely on the Tenn-Tom. Problems facing the waterway in meeting competition from other transportation modes are then discussed. Finally, potential new sources of coal that might be shipped on the waterway are examined.¹

In light of this analysis, it can be concluded that the waterway would face very stiff competition from the existing Mississippi River route, and, in the near future, from railroads. Full use of the waterway would appear to require development of coal markets yet to be created in the region.

WATER TRANSPORTATION OF COAL IN THE UNITED STATES

During recent years, the amount of coal shipped on the Nation's inland waterways has amounted to approximately 10 percent of total shipments of domestically mined coal and is roughly equivalent to the amounts of coal trucked to final destination. Most of the coal loaded along any given river system is also used along the same river. For example, during 1977, total movements of coal on the Ohio River amounted to 53.7 million tons.² Of this amount, 36.4 million tons was consumed by industries and other buyers along the River. The same pattern existed elsewhere, including the Warrior River system which will ultimately become part of the Tennessee-Tombigbee complex. During the same year, the Warrior River system carried almost 8 million tons of coal, of which 7 million were used along the river system. Most of this coal appears to have come from Alabama and supplied the steel industry in the area of Birmingham.

Footnotes at end of article.

To capitalize on river shipments of coal, many consuming facilities, especially large steam-electric power plants, have been sited along navigable rivers. Coal is mined, shipped and consumed either on or very near the same river systems. According to the Coal Traffic Annual, the average length of coal waterway movements during 1977 was 285 miles per ton, a distance considerably shorter than the total length of most of the major waterway systems. The average length of shipments on the railroads was 476 miles per ton.

Proponents of the Tennessee-Tombigbee Waterway are suggesting that the length of shipments would increase significantly with the completion of the project. Most of the coal traffic moving over the waterway would originate either along the upper reaches of the Tennessee River or near the confluence of the Ohio and Mississippi Rivers, and would terminate at Mobile, Alabama. This coal would be earmarked either for export or for consumption by steam-electric power plants along the Gulf Intracoastal Waterway. The distance traveled would be considerably greater than the average distance covered in waterway movements over recent years.

COMPETITION FROM THE MISSISSIPPI AND OHIO RIVERS

One of the major problems of the Tennessee-Tombigbee Waterway is the size limitation of the barge tows that can safely negotiate certain segments of the waterway. According to estimates of the General Accounting Office,³ certain portions of the Tombigbee River may not be able to accommodate tows containing more than four barges. This is crucial for two reasons. First, although the waterway would greatly shorten the distance between the source and destination of the coal, these smaller tows will be competing with larger ones on the Ohio and Mississippi Rivers, whose bends are more gentle and require less demanding river navigation. According to the Interim Report of the Interagency Coal Export Task Force (ICE Report)⁴ the Mississippi River below St. Louis can accommodate tows of up to 25 barges and below Cairo, Illinois, the tow can be increased to 45 barges. The Ohio River can handle tows up to 15 barges per tow. Assuming that each barge carries with the standard 1,500 tons, the movement on the Tenn-Tom could be as low as 6,000 tons per tow contrasted to 67,500 tons per tow on the lower Mississippi River and 22,500 tons on the lower reaches of the Ohio.

Second, there is the general lack of constraints on the lower Mississippi River, which requires no locks and dams to maintain its pool level. Likewise, the lower portions of the Ohio River contain no major constraints. Most of the coal expected to move over the Tenn-Tom Waterway will be produced in the area of southern Illinois, southwestern Indiana, and western Kentucky and would have easy access to these lockfree waterways. The Tenn-Tom, however, would contain a series of eleven locks (from the northern entrance on the Tennessee River system to the southern end at Demopolis), each of which could detract from the overall efficiency of the waterway. (Although the table from the ICE Report states that the Tennessee River (the first leg of the Waterway) itself can accommodate tows of up to 15 barges, at some point along the route, these larger tows would have to be broken up in order to navigate the narrow and winding sections of the upper Tombigbee River.)

TABLE 5-8.—NORMAL MAXIMUM TOW SIZES ON INLAND WATERWAYS

River	Normal maximum tow size	Controlling depths
Mississippi:		
Above St. Louis.....	15	9 ft.
To Cairo, Ill.....	25	Do.
Below Cairo, Ill.....	45	Do.
Below Baton Rouge, La.....	45	40 ft.
Illinois Waterway.....	15	9 ft.
Missouri.....	4-6	8 to 9 ft.
Ohio.....	15	9 ft.
Monongahela.....	4	Do.
Allegheny.....	12	Do.
Kanawha.....	9	Do.
Kentucky.....	1	Less than 8 ft.
Green.....	4	9 ft.
Cumberland.....	8	Do.
Tennessee.....	15	Do.
Arkansas.....	9	Do.
Ouachita.....	2	Less than 8 to 9 ft.
Atchafalaya.....	4	10 to 12.9 ft.
Morgan City—Port Allen.....	5	10 to 21.9 ft.
Gulf Intracoastal.....	5	10 to 12.9 ft.
Houston ship canal.....	5	40 ft.
Black Warrior system.....	6	9 ft.
Columbia/Snake.....	7	13 to 17.9 ft.

Note: Barges are in jumbo equivalents; i.e., 1,500 tons per barge.

Source: American Commercial Barge Line Co., and American River Co.

Barge operators have indicated that fuel consumption (ton-miles per gallon) for the small tows would not be considerably greater than that for the larger tows. Smaller less fuel-consuming engines could move these barges whereas the 8,000 to 10,000 horsepower engines on "lower-Mississippi" towboats would consume a comparable amount of fuel per ton-mile.

Some of this economy would be lost, however, to the larger number of towboats that would be required to move an equivalent amount of coal. Furthermore, a small tow requires almost the same number of crewmen as the large tow. Therefore, the direct labor cost of moving 6,000 or 9,000 tons of coal could approach that of moving 60,000 tons of coal down the Mississippi.

COMPETITION WITH RAIL TRANSPORTATION

The Tennessee-Tombigbee Waterway will very likely find itself also in competition with unit-train shipments to both Gulf ports and East Coast ports. One of the railroads active in the shipment of coal along the Mississippi River corridor is the Illinois Central-Gulf (ICG). Just recently, the ICG signed a contract to ship 125,000 tons of Illinois coal to New Orleans, ultimately for export to Spain.

Spokesmen for the Railroad have indicated that they feel quite comfortable competing with barge movements on the inland waterways, even the larger tows navigating the lower Mississippi. Until recently, many of the mines in the Appalachian areas experienced difficulty participating in the export markets and Southeastern utility markets because of competing rail companies and their unwillingness to connect their rail lines at a crucial link at Deane, Kentucky.

Within the last two months, however, this connection has been made, eliminating an unnecessary 265 rail miles and opening new utility markets in Florida, Georgia, South Carolina, and Alabama.² Some of these markets may be focal points for competition between coal moving over the proposed waterway and that shipped by rail.

MARKETS

The justification of the Tennessee-Tombigbee Waterway has also been based on expanding coal trade between the Eastern Interior Basin³ consisting of Illinois, southwestern Indiana, and western Kentucky and overseas consumers. Increasing the demand for this coal, however, is proving difficult, even under the best of transportation cir-

cumstances. Coal from this area contains a relatively high percentage of organic sulfur which is difficult to remove prior to combustion. Domestic utility or industrial steam plants are generally required to apply flue-gas desulfurization (FGD) to comply with clean air regulations.

This requirement is resulting in the loss of the market for Illinois Basin coal. For example, although the actual tonnage of coal used for electric power generation in Illinois has increased over the past ten years, the percentage of Illinois Basin coal used for electricity generation has declined from 100 percent to about 60 percent. Stimulating export demand for high-sulfur coal has been even more difficult. With the exception of the Japanese, who are generally recognized as the world leaders in the application of FGD technology, most of the coal-importing countries, especially in Europe, have taken an entirely different route to achieving clean air.

These countries have chosen to burn low-sulfur instead of scrubbing stack gases. Consequently, with the exception of a few specialized and limited markets for high-sulfur coal,⁴ Illinois Basin coal must reach the coast at a price low enough to at least compensate for flue-gas desulfurization. Any additional cost in mining or shipping, including barging in small tows, detracts from the marketability of Basin coal.

The Waterway is also intended to serve other coal producing districts, including those in eastern Tennessee and Alabama. The latest Keystone Coal Industry Manual, however, shows no planned capacity expansion for Tennessee over the next several years. Although an additional 23 million tons of capacity is planned for Alabama, the greatest portion of this will be metallurgical coal not likely to use the canal portion of the Tenn-Tom.

FOOTNOTES

¹ For a more complete discussion of these issues, refer to hearings held on the Tenn-Tom by the Senate Committee on Appropriations, 96th Congress, Second Session, August 21, 1980.

² National Coal Association, 1979 Coal Traffic Annual, Table III-3.

³ U.S. General Accounting Office. To continue or halt the Tenn-Tom Waterway? Information to help the Congress resolve the controversy. (B-167941) Washington: May 15, 1981.

⁴ U.S. Department of Energy. Interim report of the Interagency Coal Export Task Force. (DOE/FE-0012). Washington: January 1981.

⁵ Prior to the connection, coal on the L&N R.R. servicing Eastern Kentucky mines had to be routed northwest to Winchester, Ky. and around the main L&N line in order to continue southeast. The new 1200-foot connection enables L&N coal to be switched to C&O lines, then to Clinchfield lines and finally to SCL lines that service much of the southeast.

⁶ Also known as the Illinois Basin.

⁷ These would include shipments for use in the cement industry such as the shipments made by the Illinois Central Gulf Railroad to Spain during June, 1981.

Mr. PERCY. Fourth, the U.S. Court of Appeals for the Fifth Circuit has ruled that the Corps of Engineers violated the law in constructing parts of the project.

Accordingly, the corps is now required to submit up-to-date benefit/cost data to the Congress in any future project submissions. Given the enormous price tag of the ultimate project, a realistic cost/benefit ratio would reveal that this project is an economic Edsel that should be recalled immediately.

Because of its importance in showing that this project has proceeded unlawfully, I am today asking unanimous consent that relevant portions of the fifth circuit opinion be printed in the RECORD.

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

U.S. COURT OF APPEALS FIFTH CIRCUIT UNIT A

Environmental Defense Fund and Louisville & Nashville Railroad Company, Plaintiffs-Appellants, and National Audubon Society, et al., Plaintiffs-Intervenors-Appellants, v. John O. Marsh, Jr., et al., Defendants-Appellees, and Tennessee-Tombigbee Waterway Development Authority, et al., Defendants-Intervenors-Appellees, No. 80-3915, July 13, 1981.

WATER

Federal, state, and local regulation—Statutory construction—In general (§ 28.051).

Federal, state, and local regulation—Navigable waters (§ 28.35).

Federal, state, and local regulation—Administrative agencies—Procedure before agencies (§ 28.621).

Army Corps of Engineers refusal to prepare supplemental National Environmental Policy Act environmental impact statement on major waterway project which underwent significant modifications after original EIS was filed constituted violation of corps' own regulations and NEPA, since corps, by refusing to prepare supplemental EIS, failed to make determination of whether project modifications would have significant impact upon environment.

STATUTES

Federal—National Environmental Policy Act—Impact statement preparation (§ 95.0112).

Federal—National Environmental Policy Act—Significant Impacts (§ 95.0116).

Construed.

Environmental group appeals decision of lower court granting motion for summary judgment in favor of the Government in an action challenging Army Corps of Engineers refusal to prepare a supplemental environmental impact statement on a major waterway project.

Affirmed in part and reversed in part. John T. Brown and Stephen E. Rody, Washington, D.C., for appellant.

Lawrence A. G. Moloney, Department of Justice, Washington, D.C., for appellee.

FULL TEXT OF OPINION

Appeal from the United States District Court for the Northern District of Mississippi.

Before Skelton, * Senior Judge, and Rubin and Reavley, Circuit Judges.

Reavley, Circuit Judge:

The Environmental Defense Fund and other plaintiffs brought suit against John O. Marsh, Jr., in his capacity as Secretary of the Army, based on the claim that the Army Corps of Engineers has violated several statute and regulations in the course of planning and constructing a major water project, the Tennessee-Tombigbee Waterway. The district court granted the government's motion for summary judgment, and the plaintiffs appealed. We affirm in part and reverse in part.

VIII. THE APPROPRIATE REMEDIES

The parties have been of little assistance to us in proposing reasonable and proportionate remedies for the violations discussed above. The plaintiffs seek to enjoin construction of the entire TTW for the slightest infringement, while the federal defendants rarely even address the question of remedies.

*Senior Judge of the United States Court of Claims, sitting by designation.

A. THE SUPPLEMENTAL EIS

When a court has found that a party is in violation of NEPA, the remedy should be shaped so as to fulfill the objectives of the statute as closely as possible, consistent with the broader public interest. An injunction of the federal action at issue is often appropriate, but the injunction should be limited by general equity principles. One beneficial effect of such injunction is to maintain the *status quo* so that the relevant decision makers and the public may still have the opportunity to choose among alternatives, as required by NEPA. Another purpose is to provide the agency with an incentive to comply with NEPA in as rapid and thorough a manner as is reasonably possible. The court should tailor its relief to fit each particular case, balancing the environmental concerns of NEPA against the larger interests of society that might be adversely affected by an overly broad injunction. See *State of Alaska v. Andrus*, 590 F.2d 465 (D.C. Cir. 1978), vacated in part on other grounds sub nom. *Western Oil & Gas Association v. Alaska*, 439 U.S. 922, 99 S.Ct. 303, 58 L.Ed. 2d 315 [12 ERC 1311] (1978).

On the issue of the need for a supplemental EIS, we reverse the judgment of the district court and remand the cause for entry of summary judgment for the plaintiffs. The most important remedy available is that the Corps must immediately prepare a supplementary EIS covering all of the changes in the design and economic projections for the TTW that we have discussed in parts IV.A.-D. of this opinion. The EIS must comply with all the requirements of NEPA, both procedural and substantive.

In order to encourage rapid and thorough compliance with NEPA, it is appropriate to impose some injunctive remedy until a final supplemental EIS is filed. A blanket injunction of construction on the entire TTW is not justified, however, because the bulk of this project has been discussed in a valid EIS. The injunction that would most closely fit the Corps' specific violation of NEPA is one targeted directly at some of the major post-1971 changes in the TTW that will be discussed in the supplemental EIS. We therefore direct the trial court immediately to enjoin (1) the construction or letting of contracts on the chain-of-lakes segment and the cutoffs of the Tombigbee River channel, and (2) any activity significantly affecting the environment of the land acquisitions planned after 1971.

The district court may allow specific exemptions from this injunction at the request of the Corps and after an evidentiary hearing. Such exemptions shall be granted only if the Corps demonstrates by a preponderance of the evidence that the public interest will suffer irreparable harm, but not based merely upon future increases in cost of construction. The district court shall retain jurisdiction pending the submission of a final supplemental EIS. At that time, the district court may issue whatever order it finds to be appropriate and consistent with this opinion.

B. CORRECTION OF INTEREST RATES AND CBR

We have found that the Corps may not properly use the lower interest rate in CBR computations for the TTW, as provided in 42 U.S.C. § 1962d-17(b). We reverse the judgment of the district court and remand for entry of summary judgment for the L&N. Our holding is nevertheless limited by the rule that congressional action based upon a specific CBR forecloses judicial review of that CBR. *FDI*, 492 F.2d at 1138-41; *Sand*, 629 F.2d at 1013. For that reason, we will not order the Corps to "correct" past submissions to Congress. But we can order the Corps to cease using the exemption provided in 42 U.S.C. § 1962d-17(b) for all relevant cost-benefit computations for the TTW.

IX. CONCLUSION

We are extremely reluctant to interfere with the construction of a project that Con-

gress has authorized for the last ten years and that is now 55 percent complete. But the plaintiffs have established that the Corps has blatantly violated NEPA and its own regulations by refusing to prepare a supplemental EIS on the major changes in the Tennessee-Tombigbee Waterway that have occurred since 1971. Any layperson looking at a list of these changes would at once perceive that such major alterations could have significant environmental impacts. All the expert testimony offered by the parties has confirmed that lay judgment, and the Corps has been at an utter loss for evidence to justify its refusal to file a supplemental EIS. If the limited injunctive relief we have imposed seems harsh or late, the fault lies with the decision of the Corps to ignore its responsibility and to resist this lawsuit while continuing its default. We have discussed in notes 7 and 10, above, the Corps' new regulations governing the preparation of a supplemental EIS. 45 Fed. Reg. 56730 (1980) (to be codified 33 C.F.R. § 230). They embody what appears to be an accurate perception of NEPA's requirements, along with a genuine desire to implement the full spirit of that act. If that kind of clarity and intent had guided the Corps in its decisions for the Tennessee-Tombigbee Waterway from 1975 to 1979, this case would not have been necessary.

To briefly summarize our holdings, we reverse the district court's judgment as to the need for a supplemental EIS and remand with directions to enter summary judgment for the plaintiffs, except on the issue of additional spoil disposal, a holding which we join. We affirm the district court's judgment that the Corps does not yet need to file a comprehensive EIS addressed to future improvements on the Black Warrior-Tombigbee Waterway. On the issue of general statutory challenges to the cost-benefit ratios for the Tennessee-Tombigbee, we disapprove of the reasons given by the district court in denying relief, but the court's judgment stands on alternate grounds not challenged on appeal. Finally, we reverse the judgment that the plaintiff Louisville & Nashville Railroad may not obtain judicial review of the Corps' compliance with 42 U.S.C. § 1962d-17, and we direct entry of summary judgment for the plaintiff on that issue.

We direct the district court to impose a temporary injunction affecting certain segments of the waterway, pending the submission of a final supplemental EIS in accord with this opinion. The district court should retain jurisdiction of this cause until that document is submitted to the court, at which time the district court may enter a final order.

Affirmed in part and reversed in part.

Mr. PERCY. The public outcry over the continued funding of this project is overwhelming.

It is time to face the facts with respect to the Tennessee-Tombigbee Waterway. It is a wasteful project that simply cannot be funded in today's economic climate. Accordingly, when the Energy and Water Appropriations bill comes to the floor, I, along with Senator MOYNIHAN and several other of our colleagues, will offer an amendment to strike project funding. I hope that our colleagues will support our efforts.

BRAZILIAN GASOLIN PROGRAM EXPANDS RAPIDLY

Mr. PERCY. Mr. President, recently, Brazilian Finance Minister Ernane Gal-

veas outlined the impressive steps taken by the Brazilian Government to reduce the economic burden created by the spiraling costs for imported energy.

A hallmark of that program is the national alcohol fuels program. Currently, about 375,000 new cars are operating on pure alcohol in Brazil. By the end of 1982, it is anticipated that about 12 percent of the nation's fleet of 8 million vehicles will be operating on straight alcohol, made from home-grown sugar cane.

By 1985, the program may result in about a 10-percent reduction in crude imports. Over the 20-year life of the program, the total net foreign exchange savings could total \$32 billion. Already, from January to May 1981, the consumption of gasoline in Brazil had decreased by 16.3 percent.

Significantly, almost 300,000 new jobs have been created by the introduction of this new domestic energy industry.

Mr. Chairman, the Brazilian program could very well serve as the model for other nations seeking the creation of new domestic energy sources, including the United States. The Brazilian program emphasizes strong cooperative links between the private and public sectors; it has the full support of the automotive industry and petroleum distributors.

As might be expected, the program has had some difficulties. In order to reduce the cost of converting their cars to alcohol, many motorists turned to untrained mechanics who failed to make all the necessary adjustments. Those cars are performing poorly. The government has now taken steps to curtail those illegal conversions.

Despite these problems, other countries such as the United States may want to follow the lead of Brazil. In Illinois, for instance, we have abundant coal reserves that could be turned into power alcohol-methanol.

Methanol might be ideally suited for urban areas, while ethanol made from biomass might be the best alternative fuel for rural and isolated areas.

In a few weeks, the U.S. Postal Service, at my request, will place into operation a 40-vehicle fleet of alcohol-powered Ford Pintos. The fleet will initially operate in Springfield, Ill., and Denver. It includes 20 ethanol-powered and 20 methanol-powered vehicles. I am hoping that experimental use of these nonpetroleum fuels will prove the efficacy of alcohol fuels, even during the hearty Midwestern and Rocky Mountain winters.

I would like to submit for the Record a copy of the speech given by Mr. Galveas before a lunch sponsored by Brasilinvest. I would also like to include my own address before the same Brazilian investment group, which is so ably led by Dr. Mario Garnero.

The material follows:

ADDRESS BY MR. ERNANE GALVEAS

Brazil shows a rapid development pattern hardly paralleled in post-war Western economies. Once the foundations of political stability were laid in 1964, Brazil managed to implement—in barely three years—one of the most well-rounded and integrated sets

of structural reforms which paved the way to what would be the most prosperous phase of its history.

As a matter of fact, from 1968-1974, the gross domestic product grew at a yearly average of 11.5 percent. Inflation dropped from almost 100 percent in 1964 to around 15 percent in 1972 and 1973. Exports grew more than fourfold, from 1.4 billion dollars in 1964 to 8 billion dollars in 1974. The social and economic infrastructure was substantially expanded, thanks to huge investments in electric power, transports, communications, health, education, and welfare.

As of 1974, however, a severe blow struck the brilliant course of the Brazilian economy, namely, the fourfold hike in oil prices and the increased price of basic raw materials that followed in the wake of the energy crisis.

In the 1973-1974 period our imports grew more than 100 percent while exports grew only 28 percent, causing a relatively large deficit: 4.7 billion dollars. The negative balance of our current account operations jumped from 1.7 billion to 7.1 billion dollars, a more than fourfold increase. Inflation more than doubled, hovering around 35 percent.

This setback, however, did not discourage the Brazilian people nor the Brazilian Government. On the contrary, the whole country committed itself to a harsh work plan, this time to speed-up the structural changes that had already been taking place in the industrial sector and to bring the economy into step with the new world picture as soon as possible.

The favourable situation of liquidity and low interest rates in the international market allowed the country to begin an investment program, principally in the areas of capital goods, steel, nonferrous metals, petrochemical products, fertilizers, paper and cellulose, and cement. From 1974 through 1980, investments in these sectors were estimated at 30 billion dollars, at 1980 prices. These investments still continue in the energy sector, totaling around 20 billion dollars in hydroelectric plants, mining, domestic oil prospecting and production, and in programs of fuel substitution and rationalization, such as the alcohol program, the utilization of charcoal, and improvement of the transportation system.

Two important aspects should be pointed out in this 1974-1980 period. In spite of all the difficulties stemming from the oil crisis, the inflation rate was kept at 30-40 percent; and the trade balance deficit was substantially reduced (it was practically eliminated). At the same time, the economy continued to grow, now at a lower rate—an average of 7 percent—still a highly significant rate as compared with the rests of the world.

The Brazilian economy was in the midst of this recovery process when it was hit by a new oil blow in 1979 and 1980. And soon after, by another equally drastic blow, namely, the unusual increase in interest rates in the international market, to which was added, more directly, the valorization of the dollar and the drop in the price of the major primary exports.

These events subjected us to a heavy load and, to give an idea of the dimension of this burden, suffice it to mention that this year alone the combined effect of the increase in interest rates and the drop in farming export revenues may mean a loss of more than 3 billion dollars in the balance of payments.

Fortunately, however, the task of restructuring the industrial sector since 1974, coupled with adequate policies of incentives to exports, agriculture, mining, and energy, is making it possible to absorb these blows, with great sacrifices but certainly in such a way as to allow a certain dynamism of the economy and the adequate management of the balance of payments and of the foreign debt.

In the prevailing framework of difficulties and widespread recession in the international markets, Brazil's economic strategy had to be modified, the greatest adjustment effort being geared to increasing participation of domestic savings and to decreasing dependency on outside resources.

External savings will continue to play an important role in our development process. Our objective, however, is to bring down its large share of the gross domestic product these last years down to the levels of the years preceding the energy crisis, which stood at 2-3 percent. Thus, the foreign debt will grow at a lower rate than the gross domestic product, (in dollars) and exports in the next three years and the debt in currency will possibly start to decline as of 1985.

Combatting inflation plays a very important and decisive role in this economic policy strategy. This is why we are acting firmly and boldly to attack the causes of inflation.

Brazil's current economy policy was formulated on the basis of a cold analysis of these conditioning factors, and of the conviction that the identification and solution of the great problems of the present, particularly those represented by the limitations of an outside nature, is fundamental (if we are) to achieve again the high levels of economic and social development that characterize our economic history. And, more importantly, to do so with less dependency on external savings for its financing.

The work we are now carrying out in this area seeks to combine supply policies in selected sectors with specific actions capable of contributing towards the reduction of the growth rate of world demand. Parallely we seek to ascribe to the market an increasing degree of responsibility in the allocation of savings and in price setting, through debureaucratization and decreased intervention of the state in private business.

Through adequate utilization of economic policy tools, the Government is striving to promote a broad program of internal and external stabilization. In the first case, to bring down the inflation rate to decisively decreasing levels. In the second, to bring about the quickest possible readjustment in the balance of payments.

On the internal front, the implementation of this strategy centers around the monetary and fiscal policy, so as to allow the growth of the money supply and of public expenditures to be compatible with the goals of combating the basic causes of the inflationary process. The rationale of this policy is that the public sector's excessive and inflationary demand should be dealt with through fiscal policy, while credit expansion, at appropriately lower inflation rates, should ensure the normalcy of the private sector's demand, gradually reducing the pressure on prices.

On the external front, the positive effects of the monetary and fiscal policy should combine the incentives of a realistic exchange policy, favoring a progressive adjustment in the balance of payments, through accelerated exports expansion and slower increase of imports, ensuring at the same time the normal financing of current account transactions and maintenance of an appropriate foreign debt, international reserves, and imports ratio.

The first fruits of this set of measures are already being reaped, both in terms of internal equilibrium and of the external sector.

The expansion of the means of payment until August, measured on a yearly basis, reached 60 percent, as compared with approximately 82 percent in the July '79-August '80 period. A persistent drop in the growth rate of the money supply has contributed towards the progressive reduction of the inflation rate, which has already shown a decrease for five consecutive months measured on a yearly basis.

As to the trade balance, its behavior in the current year shows that we are rapidly

moving towards reverting the deficit recorded since 1978. From January until August the trade balance was virtually balanced (showing a deficit of only 36 million dollars) as compared with a 2.5 billion dollars deficit in the same period last year.

The balance of payments deficit in current transactions will certainly be lower than the 1980 deficit, which reached close to 13 billion dollars. In the current year, it should level at around 11 billion dollars, which represents a significant reduction in real terms, if one takes into consideration the levels of world inflation.

Thus, we shall have achieved another of the major goals of the economic policy, namely, reducing the share of external savings in the financing of our investment process. As a matter of fact, the ratio of the current accounts deficit to the gross domestic product should drop from 5.4 percent in 1980 to 4.6 percent in 1981 (in 1974 this ratio was 6.7 percent).

These results show that Brazil is successfully managing the difficulties of the economic situations, demonstrating at the same time that we have been able to promote the external adjustment at a higher speed than after the first oil crunch. As a matter of fact, after the 1974 crisis, it took us three years to achieve the equilibrium of the trade balance, and everything indicates that this time we will quite possibly do it in a year.

These positive aspects of the stabilization policy notwithstanding, we have not been able to avoid some unfavorable effects of the slower growth of the economy—estimated at 4 percent this year—nor the impossibility to generate jobs at the rate required by the expansion of the economically active population.

We are undoubtedly living in a transition period indispensable to the reordering of the economy, the new world reality, and the restoration of the domestic monetary order and the equilibrium of foreign accounts.

Actually, we have all we need to resume—in a relatively short span—the pace of economic and social development compatible with our historic tradition.

On the one hand, the pressures from the large investments begun or stepped up as of 1974 should disappear as projects reach completion, most of them between 1982 and 1983.

On the other hand, broad perspectives open up with the utilization of the huge potential of Brazilian agriculture, including energy production, as well as of the development of the immense mineral resources, particularly in the Amazon region of Carajas.

The Carajas project could contribute with net yearly exports totalling about 10 billion dollars when it is in full operation. In 1981 its iron exports will already reach 600 million dollars. Besides iron, the Carajas project foresees reserves and export potential in connection with copper, aluminum, nickel, and manganese.

This huge potential of natural resources, however, cannot be materialized without adequate participation of outside investments. Besides offering the possibility of investments in highly feasible projects, Brazil also has one of the most stable sets of foreign capital legislation.

We Brazilians have everything to believe that the future works in our favor. What we need is to persevere in the effort we have been expending, to maintain an attitude of optimism, and, together with those who believe in Brazil, to build a solid and stable economy.

REMARKS BY SENATOR CHARLES H. PERCY

Minister, Ernane Galveas, my good friend, Ambassador Silveira, our host Dr. Mario Garnero, distinguished guests, ladies and gentlemen.

I first met Mario Garnero six months ago when he travelled to Washington to appear before a Senate Governmental Affairs Sub-

committee that I chair to testify about the ambitious Brazilian Alcohol Fuels Program. I was deeply impressed by his presentation which detailed how a developing country had decided to do something about achieving energy independence, instead of just talking about it.

That afternoon, I had the pleasure of interviewing Mario Garnero for a television show aired in Decatur, Illinois, which is the alcohol fuels capital of the United States.

Immediately following the taping, Mario invited me to speak this afternoon, and I had no problem accepting. Just as long as Mario did not throw the same tough questions at me that I asked him that afternoon!

Believe me, there is no end to the tough questions about today's energy problems (like debate on AWACS or MX missiles). The answers are difficult, controversial, and never totally satisfactory.

Brazil, with its unique, creative, bold National Alcohol Program, can give us some answers on how each nation might structure its own unique energy plan.

We all know the seriousness of the energy problem. With the current gulf of crude oil on the market, once again, regrettably it appears that too many of us have placed the energy question on the back burner—business as usual.

After the 1973 Embargo, we in the United States made the strategic mistake of not following up quickly with developing alternatives to Middle East oil. As a result, when in 1979 we lost two million barrels a day from Iran, the lines at the gas stations reappeared and the prices doubled.

Now we know that there is dissent in OPEC over pricing and production policy because of the present oil surplus. Yet, this surplus has not noticeably eased the economic burden of the oil-importing nations. The price of oil in real terms is still more than five times greater than in 1972; it is expected to increase at the rate of three percent per year until the end of this decade.

Here in the United States, according to the Library of Congress, more than \$3 billion an hour or \$75 billion a year is leaving our nation to pay for oil imports. This is the case, despite a dramatic drop in imports—from as high as 47 percent of our supplies down now to about 36 percent. In the oil-importing developing nations, net oil imports costs are expected to double by 1990, after a ten-fold increase during the 1970s. This affects some 64 developing nations that depend on imports for more than 75 percent of their commercial oil supplies.

The IMF reported that the balance-of-payments deficits of the oil-importing countries will increase from \$7 billion in 1970 to an expected \$97 billion in 1981.

There can be no doubt about the seriousness of our present energy problem. None of us have any doubt that it is going to be with us for a good time to come.

That is the reason I developed my own senatorial plan for dealing with the energy crisis.

First, together with the late Senator Hubert Humphrey of Minnesota, I founded the Alliance to Save Energy. Senators, Congressmen, Cabinet officials and corporate and labor leaders serve on the advisory board. Its main philosophy is that a barrel of oil made available through increase end use efficiency is equivalent, and in some respects superior, to a barrel of newly discovered or imported oil. Here, in the United States, new fuel-efficient vehicles have resulted in impressive decreases in gasoline consumption without forcing the curtailment of necessary driving.

Second, I have consistently supported the full development of alcohol fuels from biomass and coal, two resources abundant in my own state of Illinois. Four years ago, I introduced the four-cent-a-gallon Federal highway excise tax exemption for gasoline,

which is a blend of 90 percent gasoline and ten percent ethyl alcohol. I have repeatedly fought attempts to rescind the exemption because its continued existence is critical to our infant biomass energy industry. Next month, the United States Postal Service will begin, at my request, the experimental use of vehicles powered by either ethanol and methanol in Springfield, Illinois, our state capital, and Denver, Colorado. This is quite similar to the fleet experiments in Sao Paulo that laid the groundwork for the Brazilian program. I will be pleased to inform any of your governments of the results of the Postal Service work.

Third, earlier this year, I assumed chairmanship of the Governmental Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes. Although it is not as well known as the Foreign Relations Committee, chairmanship of this subcommittee has afforded me the opportunity to promote in the national interest conservation and the use of alternative sources of energy, including alcohol fuels.

In March of this year, I chaired a hearing which featured the growing worldwide movement to develop alcohol fuels, led by Brazil. I specifically wanted to hear about the Brazilian program, because, at that time, our own alcohol fuels program was being criticized as being an unrealistic alternative to hydrocarbon energy. Although I wanted to learn of the technical details, I was equally concerned about the motivation to change in Brazil. Yes, one of the crucial variables in any alternative energy program is the willingness of a country to take the risks necessary to dramatically and quickly change the energy infrastructure. I was not disappointed by Mario's testimony. It captured the essence of the Brazilian program: steadfast commitment to change and the courage to accept criticism that is bound to be generated.

It is easy to understand why Brazil acted. Brazil suffers the fate of a number of developing oil-importing nations. Despite the ambitious export program ranging from baby shoes to commuter airplanes, one-half of the total foreign exchange Brazil earns from its exports has to be spent on oil imports. That amounted to \$10.2 billion in 1980.

In a nutshell, the Brazilian program is the perfect marriage of two major problems facing the nation: perennial sugar cane surpluses coupled with a volatile international price structure and an 85 percent dependence on imported petroleum. As far back as 1929, Brazil used ethanol made from sugar cane as a blending agent with gasoline, sometimes as high as 20 percent. A 20 percent mixture can be used easily in a conventional motor vehicle without any modification. Now, it plans to go to a full 100 percent use of ethanol in specially manufactured cars.

Yet, it was the economic burden created by heavy borrowing that forced Brazil to develop new energy strategies. Like many nations, Brazil believed it could pay the higher prices for imported oil but soon found the accompanying debt burden to be onerous.

Therefore, a consensus developed to develop a National Alcohol Plan that had the support of the government, the automobile manufacturers, the petroleum distributors, and the investment community.

It is too early to tell whether the program will meet all of its ambitious goals, yet the World Bank and the International Finance Corporation have shown their confidence in the program by granting it sizable loans. For the World Bank, it is the first time it has invested in a fuel alcohol program.

With all of the experts on the Brazilian program present, I am somewhat reluctant to discuss the details, but I believe the key facts deserve mention.

As of June 30, 1981, almost 375,000 new cars were operating on almost pure alcohol. About one-third of all new vehicles manufactured

in Brazil are designed to operate on ethanol. I can personally vouch for the driving qualities of the Brazilian alcohol cars.

I drove a General Motors of Brazil Chevrolet Comodoro from my Georgetown home to Capitol Hill and found it more than satisfactory. By the end of 1982, it is anticipated that about 12 percent of the nation's fleet of eight million vehicles will be operating on straight alcohol, including additional in-use vehicles converted from gasoline use. Almost 400 plants are producing alcohol, which is being distributed to 6,400 gas stations throughout the nation.

By 1985, the program may result in about a ten percent reduction in crude imports. Over the 20-year life of the program, the total net foreign exchange savings could total \$32 billion. Already, from January to May, 1981, the consumption of gasoline in Brazil has decreased 16.3 percent, compared with the same period last year.

One of the most significant aspects of the program is the development of new jobs. The Brazilian government already estimates that 300,000 new jobs have been created and more are expected. Of particular importance is that most of these jobs are in rural areas. Creation of an alcohol fuels industry may be one way of retarding migration to urban areas, which is a worldwide problem.

The Brazilian program, as one might guess, has not been without its problems. They range from cold-weather starting problems for the alcohol engine cars, to poorly done conversions of gasoline vehicles by unauthorized garages, to slow sales created by an economic slowdown, to a reduction in the government subsidized price for ethanol at the pump. Yet, all of these problems can and will be solved.

Brazil is now viewed as the model for the rest of the world as other nations try to adopt the best features of the alcohol program to their own unique needs.

The sugar-producing nations of Latin America and the Caribbean appear to be the most likely candidates for following Brazil. This effort may now take on more urgency as the Congress has recently increased the United States internal sugar price support program, that will effectively make it more difficult for these countries to market sugar here.

The Organization of American States is leading the effort to study the potential for alcohol from sugar cane and related products.

For instance, Costa Rica has started a 20 percent gasoline program in the San Jose area. It may expand the program nationally, and dedicate 25 percent of the ethanol supply to a motor vehicle fleet that would operate on straight ethanol. Rate of return on investment is calculated at 15 percent with the creation of new sugar mills and distilleries.

Columbia is hoping to produce 3.3 million liters of ethanol per day by 1991 for a 20 percent gasoline program. It may use yucca and sweet sorghum in addition to sugar-related products as the raw material.

Paraguay has been increasing its gasoline blend from 5 to 10 percent while Uruguay is holding at five percent.

In the first week of November, the OAS will be sending a special mission to the Dominican Republic to investigate a fully-integrated energy and cattle feed program. Here, sugar products would not only be used for fuel alcohol, but as cattle feed, and as a chemical feedstock for the plastics industry. Additionally, the waste steam produced at the sugar mill could generate electricity.

The OAS is also examining the potential for converting damaged bananas unsuitable for export for use as power alcohol in Central America.

In Africa, the International Finance Corporation has funded an ethanol plant in Malawi. The landlocked nation discovered

that it could save valuable foreign exchange by reducing its importation of gasoline overland by producing ethanol from molasses.

Not only will Malawi be saving \$1.7 million a year in foreign exchange, it will be enhancing its national security, because supplies overland have been erratic.

Zimbabwe is producing alcohol fuels, and others are now following its lead such as Kenya, the Sudan, and Mali.

In Asia, the Philippines has a National Alcohol Program modeled after Brazil's with a 20 percent gasohol blend being used. Both Indonesia and Thailand are considering similar programs.

In Europe, Spain and Austria have announced gasohol programs with wheat and corn stalks being the raw ingredients.

The prospects for multilateral and regional cooperation have been enhanced by the favorable results of the United Nations Conference on New and Renewable Sources of Energy in Nairobi, which concluded on August 21, 1981.

Five thousand participants from 125 nations agreed to the "Nairobi Program of Action" for an orderly transition from oil to renewable sources of energy. For the first time, the world community unanimously has endorsed the use of renewable forms of energy as a legitimate and economically viable source for future heating and power needs.

The Conference has recommended the creation of an intergovernmental body in the United Nations to monitor the implementation of the program of action.

New, regional groups are forming to promote renewable sources of energy. There is one slated for West Africa. In this Hemisphere, the OAS wishes to create an Inter-American Alcohol Fuels Program.

By highlighting biomass energy, I do not want to exclude other potential sources of energy that might suit other countries such as coal, solar, thermal, and hydro-power.

Each country must select those renewable sources best suited for its needs and then develop an integrated and long-range energy plan. For instance, here in the United States we may decide to use ethanol from biomass in rural areas and methanol made from coal in urban areas.

I have no ready answers on how this energy transition is to be financed. I do know, however, that the rate of return on investment seems quite favorable and should be attractive to the private sector. I am sure Mario can more fully discuss his own experience.

The energy transition will not be easy. But we have no choice as we know the present situation is unacceptable. We can no longer tolerate the hemorrhaging of our foreign exchange. It threatens a financial crisis that will affect not only the developing nations, but the borrowing institutions in the industrialized nations.

Despite many problems, I believe that Brazil has made a wise choice in moving boldly to reduce imports. Many other countries are following the lead.

Then, perhaps, Brazil's example will set off a spark in all of the importing nations to move without further delay to create effective national energy independence plans. A series of such plans would be in the interest of each one of our nations, in all of our mutual interests, and in the long-term interest of mankind.

Thank you.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a sundry nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:27 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4437. An act to promote energy conservation by providing for daylight saving time on an expanded basis, and for other purposes; and

H.R. 4603. An act to provide flexibility in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions.

HOUSE BILLS REFERRED

The following bills were read twice by unanimous consent, and referred as indicated:

H.R. 4437. An act to promote energy conservation by providing for daylight saving time on an expanded basis, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4603. An act to provide flexibility in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal supervisory agencies to deal with financially distressed depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2145. A communication from the Acting Under Secretary of Agriculture for International Affairs and Commodity Programs transmitting, pursuant to law, the commodity and country allocation table for food assistance under Public Law 480 for fiscal year 1982; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2146. A communication from the Administrator of the Rural Electrification Administration transmitting, pursuant to law, a report on a non-REA loan guarantee of \$200 million to Kansas Electric Power Cooperative, Inc. of Topeka, Kans.; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2147. A communication from the Governor of the Farm Credit Administration transmitting, pursuant to law, final amendments to the Code of Federal Regulations promulgated by the Farm Credit Administration; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2148. A communication from the Acting General Counsel of the U.S. General Accounting Office transmitting, pursuant to

law, a report on the status of budget authority proposed for rescission for which Congress failed to pass a rescission bill; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources.

EC-2149. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a report on certain properties to be transferred to the Republic of Panama, in accordance with the Panama Canal Treaty of 1977 and related agreements; to the Committee on Armed Services.

EC-2150. A communication from the Secretary of the Interstate Commerce Commission transmitting, pursuant to law, notice of the Commission's inability to render a final decision in certain matters pending before it, and its extension of the time period until March 29, 1982; to the Committee on Commerce, Science, and Transportation.

EC-2151. A communication from the Secretary of Agriculture transmitting, pursuant to law, notice of an opportunity for the Department to receive a donation of 40 acres of land adjacent to the Alpine Lakes Wilderness Area in King County, Wash.; to the Committee on Energy and Natural Resources.

EC-2152. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the second calendar quarter of 1981; to the Committee on Environment and Public Works.

EC-2153. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a plan for improving the technical capability of licensee personnel; to the Committee on Environment and Public Works.

EC-2154. A communication from the Assistant Secretary of the Treasury for Legislative Affairs transmitting, pursuant to law, a report on project performance audit reports of the International Bank for Reconstruction and Development, the Inter-American Development Bank, and the Asian Development Bank; to the Committee on Foreign Relations.

EC-2155. A communication from the national vice president of the National Weather Service Employees Organization, transmitting an appeal from its treatment by the National Weather Service of the National Oceanic and Atmospheric Administration, Department of Commerce, relative to the decision to contract out the Weather Service Office at Seattle-Tacoma International Airport, Seattle, Wash.; to the Committee on Governmental Affairs.

EC-2156. A communication from the Chairman of the Navy Resale and Services Support Service of the Department of the Navy transmitting, pursuant to law, actuary and auditor reports on its retirement trust; to the Committee on Governmental Affairs.

EC-2157. A communication from the Vice-Chair of the Merit Systems Protection Board transmitting, pursuant to law, a report on the results of a survey of Federal employees regarding their knowledge of illegal or wasteful activities affecting their agencies and whether they could report such activities free from reprisal; to the Committee on Governmental Affairs.

EC-2158. A communication from the Secretary of Commerce transmitting a draft of proposed legislation making it a Federal crime to kill Department of Commerce personnel engaged in censuses and surveys; to the Committee on the Judiciary.

EC-2159. A communication from the Secretary of Labor transmitting, pursuant to law, the final report on the Emergency Jobs Program Extension Act of 1976; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-547. A petition from a citizen of New York, N.Y., urging congressional cooperation with President Reagan's efforts to strengthen the military; to the Committee on Armed Services.

POM-548. A petition from a citizen of Denver, Colo., urging congressional cooperation with President Reagan's efforts to strengthen the military; to the Committee on Armed Services.

POM-549. A resolution adopted by the Mid-Ohio Valley Mayors Association, relative to the general revenue-sharing program; to the Committee on Finance.

POM-550. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on the Judiciary.

"RESOLUTION

"Whereas, scleroderma affects some three hundred thousand people in the United States, eighty per cent of whom are women of childbearing age; and

"Whereas, the cause of scleroderma is not known; and

"Whereas, scleroderma is more prevalent than muscular dystrophy, multiple sclerosis, and a host of better known ailments; and

"Whereas, not nearly enough attention has been focused on this disease and the result is a shortage of funding for research into a possible cure; and

"Whereas, eighteen United States Congressmen have co-sponsored Resolution 321 urging Congress to declare February seventh through February thirteenth, inclusive, nineteen hundred and eighty-two as National Scleroderma Week; now therefore be it

"Resolved, that the Massachusetts Senate respectfully urges his excellency, the Governor of the Commonwealth, and the Congress of the United States to declare February seventh through February thirteenth, inclusive, nineteen hundred and eighty-two as National Scleroderma Week; and be it further

"Resolved, that copies of these resolutions be transmitted forthwith by the clerk of the Senate to the presiding officers of each branch of Congress, to each Senator and Representative from Massachusetts in the Congress and to his excellency, the Governor of the Commonwealth."

POM-551. A petition from citizens of Cincinnati, Ohio, relative to the Gay Bill of Rights; to the Committee on the Judiciary.

POM-552. A resolution adopted by the Ocean County, New Jersey Board of Social Services, relative to the use of the Lakehurst Naval Air Station as a resettlement site for Cuban/Haitian refugees; to the Committee on Labor and Human Resources.

POM-553. A petition from a citizen of Goffstown, New Hampshire, relative to union violence in America; to the Committee on Labor and Human Resources.

POM-554. A petition from a citizen of Pensacola, Fla., relative to union violence in America; to the Committee on Labor and Human Resources.

POM-555. A petition from a citizen of Enterprise, Ala., relative to union violence in America; to the Committee on Labor and Human Resources.

POM-556. A petition from a citizen of Sarasota, Fla., relative to union violence in America; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, favorably without amendment:

S. Res. 210. A resolution to compile and print a history of the Committee on the Judiciary (Rept. No. 97-259).

S. Res. 225. An original resolution authorizing supplemental expenditures by the Select Committee on Intelligence for the procurement of consultants (Rept. No. 97-260).

By Mr. MATHIAS, from the Committee on Rules and Administration, favorably with an amendment:

S. Res. 222. An original resolution authorizing supplemental expenditures by the Committee on the Judiciary (Rept. No. 97-261).

H. Con. Res. 106. A concurrent resolution to provide for the printing of the brochure entitled "How Our Laws Are Made" (Rept. No. 97-262).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, favorably with amendments:

S. Res. 218. A resolution retaining nutritional goals in the School Lunch Program (Rept. No. 97-263).

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, favorably with an amendment in the nature of a substitute:

S. 1230. A bill to provide for the minting of commemorative coins to support the 1984 Los Angeles Olympic Games (Rept. No. 97-264).

By Mr. BAKER (for Mr. HATFIELD), from the Committee on Appropriations, favorably with amendments:

H.R. 4169. A bill making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-265).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 234. An original resolution to pay a gratuity to Gerald E. Hoots.

S. Res. 235. An original resolution to pay a gratuity to Joan C. Giannini.

S. Res. 236. An original resolution to pay a gratuity to James L. McClain, Phillip W. McClain, Donald R. McClain, and John C. Dames.

S. Res. 237. An original resolution to pay a gratuity to Kenneth S. Landon, Richard J. Landon, and Thomas C. Landon.

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted:

By Mr. BAKER, for Mr. HATCH, from the Committee on Labor and Human Resources: Michael Joseph Connally, of Michigan, to be General Counsel of the Equal Employment Opportunity Commission for a term of four years.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAKER (for Mr. DOLE, for himself and Mr. WEICKER):

S. 1797. A bill to provide the private sector training and placement opportunities for residents of enterprise zones, emphasizing the use of community-based organizations and the involvement of small business concerns, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER (for himself and Mr. BAKER):

S. 1798. A bill to amend the Flood Control Act of May 15, 1928, to authorize improvements in the Memphis Harbor; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 1799. A bill to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Arizona; to the Committee on Energy and Natural Resources.

S. 1800. A bill to allow an Indian tribe to enact laws relating to the descent and distribution of restricted Indian lands located within the reservation of such tribe, and for other purposes; to the Select Committee on Intelligence.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAKER (for Mr. DOLE, for himself and Mr. WEICKER):

S. 1797. A bill to provide private sector training and placement opportunities for residents of enterprise zones, emphasizing the use of community-based organizations and the involvement of small business concerns, and for other purposes; to the Committee on Labor and Human Resources.

PRIVATE SECTOR OPPORTUNITIES ACT

● Mr. DOLE. Mr. President, I am pleased today to join the distinguished Senator from Connecticut, Senator WEICKER, in introducing legislation to modify and extend title VII of the Comprehensive Employment and Training Act.

Title VII of CETA is an innovative plan to coordinate private industry and CETA planners in an effort to solve the problem of structural unemployment. I have long believed that, given appropriate training and employment opportunities, the vast majority of the hardcore structurally unemployed could be a viable and worthwhile part of the private sector workforce. Title VII, passed as part of the Comprehensive Employment and Training Act Amendments of 1978, was a move in that direction. It was at the time a thoughtful and innovative approach to this very serious unemployment matter.

The administration of CETA programs under title VII is in the hands of private industry councils (PIC's) comprised of representatives of business, labor, community-based organizations and educational agencies and institutions. Mr. President, it was my amendment in August 1978 that mandated inclusion of community-based organizations on the private industry councils.

Community-based organizations, such as SER-jobs for Progress, OIC, the Urban League and similar groups, have been striving for years to deal with the problem of structural hardcore unemployment. One only has to review the long record of success of such groups to realize their importance to private industry council efforts to solve structural

unemployment problems. These groups with their experience and expertise in unemployment problem solving in their respective communities have provided critical input to private industry councils.

Mr. President, the legislation I am introducing today would extend the authorization for title VII through fiscal year 1985. Additionally, our proposal makes substantive changes in the method used for determining eligibility for CETA employment and training services under title VII. Under current law, individuals are eligible if they are unemployed or underemployed and economically disadvantaged. There is nothing inherently wrong with employing economic status as a criteria, and establishing a dollar cutoff level. I believe, however, that there is a better way, which we utilize in this legislation.

ENTERPRISE ZONES

Mr. President, our proposal makes eligibility contingent upon need for job training and placement, and residence in a designated enterprise zone. This legislation instructs the prime sponsors to consult with the appropriate private industry council in designating areas where the residents will be eligible for CETA title VII programs.

Local governments would be required to designate, according to specific criteria described in the bill, certain distressed area zones within their jurisdictions. Upon such designation, all employed residents would be eligible for title VII training services. Our proposal gives prime sponsors substantial discretion in designating zones. Those zones can be drawn broadly enough to include areas and individuals with substantial need for employment and training. There may be those that argue it is not fair to exclude someone just because he lives outside the boundaries of the enterprise zones. This is certainly a legitimate concern and one that should be addressed during hearings on this proposal. But I would just say that I do not think denying eligibility based on residency is any more unfair than denying eligibility because one's income exceeds a certain cutoff point.

The effect of this provision would be to loosen up the present very rigid poverty-based individual eligibility participation criteria and instead to allow participation if all unemployed residents of the hardest hit depressed areas. To be sure, the vast majority of the residents of such areas would be eligible anyway under individual-based eligibility criteria.

I would point out that by focusing our efforts on certain designated zones we can more effectively target our Federal efforts on areas and individuals most in need of improved employment opportunities.

Mr. President, the "enterprise zone" concept for redevelopment of economically impoverished and declining areas has received a great deal of attention in recent months. It is an interesting and innovative concept that deserves serious consideration. Notwithstanding that belief, this proposal should not be viewed as an endorsement of any of those pro-

posals. They may have merit. We are only suggesting that, in determining eligibility under title VII, we should focus on areas where the need is greatest.

CBO'S AND SMALL BUSINESS

Additionally, Mr. President, this legislation requires increased consultation with community-based organizations by the private industry council. As I mentioned earlier, these community-based organizations of demonstrated effectiveness possess valuable experience which should be drawn upon in delivering Federal employment and training services.

Also, Mr. President, this proposal increases the emphasis on finding employment with small business concerns. Small business is the largest creator of new jobs in America and we must recognize that when seeking permanent employment for the hardcore structurally unemployed.

TRAINING

Our proposal also emphasizes the need for training of job applicants to help them assume a permanent position in the Nation's work force.

Mr. President, I would just like to say in conclusion that we face a difficult task next year in rewriting and possible redefining our Nation's employment and training policy. Although the administration has not yet made its policy known in this regard, I believe they will look favorably on the program established in 1978 by title VII to CETA. As we consider our Federal employment and training effort, I hope that we will move toward more efforts to involve the private sector and create lasting permanent jobs and expand on the efforts started under title VII.

That is why I am introducing this legislation today and encourage this Senate to act rapidly for its enactment.

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

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

S. 1797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Private Sector Opportunities Act".

SEC. 2. Title VII of the Comprehensive Employment and Training Act is amended to read as follows:

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title—

"(1) to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act; and

"(2) in cooperation with other Federal programs that generate employment, to increase private sector employment opportunities for unemployed or underemployed persons who are in need of job training, placement, and other appropriate private sector job-related services and who are residents of enterprise zones. Training opportunities and placement for eligible participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this title, and shall be provided where feasible in cooperation with community-based organizations.

"DEFINITIONS

"SEC. 702. As used in this title—

"(1) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood groups and organizations, agencies or organizations receiving assistance under the Community Service Block Grant Act, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7 (10) of the Rehabilitation Act of 1973), agencies serving youth, union-related organizations, and employer-related nonprofit organizations).

"(2) The term 'eligible participant' means an individual who (A) resides in an enterprise zone designated under this title, (B) is unemployed or underemployed and, (C) desires to work.

"FINANCIAL ASSISTANCE

"SEC. 703. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title.

"(b) (1) Ninety-five per centum of the funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 202(a).

"(2) Funds available to prime sponsors under this title may be used to promote coordination with economic development activities supported by Federal, State, or local funds. Funds used for such coordinated activities shall not be taken into account in the computation of cost per participant or cost per placement for purposes of program evaluation.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 704. (a) Each prime sponsor, and each entity described in section 302(c) (1) (A) and (B), desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title. The description shall include—

"(1) an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council; and

"(2) provisions for training and placement activities in business concerns, especially in small business concerns, and for involving, where feasible, community-based organizations.

"(b) The Secretary shall provide financial assistance under this title to a prime sponsor, or an entity described in section 302(c) (1) (A) or (B), only if the Secretary determines that—

"(1) the proposed activities for which such financial assistance is to be used are consistent with the provisions of this Act and the regulations of the Secretary;

"(2) the prime sponsor or entity has designated an enterprise zone within the jurisdiction of such prime sponsor or entity in accordance with section 705;

"(3) the private industry council will undertake to make an analysis of private sector job opportunities, including estimates by occupation, industry, and location;

"(4) the private industry council has provided a copy of its proposed plan for activities under this title to the prime sponsor planning council for its review and comments and the recommendations of the prime sponsor planning council were satisfactorily con-

sidered prior to the submission of the proposed plan to the Secretary;

"(5) the proposed plan for activities under this title has been made available to appropriate labor organizations, community-based organizations, local economic development councils established under the Public Works and Economic Development Act of 1965, and educational agencies for their comments prior to submission to the Secretary; and

"(6) the prime sponsor and the private industry council have both agreed to the plan submitted to the Secretary and have provided assurances that no activity will be funded which does not have the approval of both the prime sponsor and the private industry council.

"(c) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under section 121(1) or by regulations under other provisions of this Act, and a specific waiver by the Secretary shall be required to make payments for any such activities.

"DESIGNATION OF ENTERPRISE ZONES

"SEC. 705. (a) For the purpose of this title an enterprise zone is any area in the United States which is designated by a prime sponsor or an entity described in section 302(c) (1) (A) and (B) and which is not disapproved by the Secretary under subsection (d) of this section.

"(b) (1) No designation may be made under this section unless an application is submitted in such form and containing such information as the Secretary determines to be necessary in order to assure compliance with the provisions of this section and section 704(b) (2).

"(2) In designating any enterprise zone under this section, each prime sponsor and entity described in section 302(c) (1) (A) and (B) shall consult with the appropriate private industry council and where feasible with community-based organizations.

"(c) (1) A prime sponsor or an entity described in section 302(c) (1) (A) and (B) may designate an area under this section only if—

"(A) the area is within the jurisdiction of the prime sponsor or the entity designating such area.

"(B) the boundary of the area is continuous in the case of an area which is not a rural area, and

"(C) the area meets the requirements of paragraphs (2) and (3).

"(2) For the purpose of paragraph (1), an area meets the requirements of this paragraph if the prime sponsor or entity determines that—

"(A) the area is one of pervasive poverty, unemployment, and general distress, or

"(B) the area is located wholly within an area which meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974.

"(3) An area meets the requirements of this paragraph if—

"(A) the average rate of unemployment in such area for the most recent 18-month period for which data are available was at least 1½ times the average national rate of unemployment for such 18-month period;

"(B) such area was a low-income poverty area (as determined by the Bureau of the Census during its most recent census);

"(C) at least 70 percent of the residents living in the area have incomes below 80 percent of the median income of the residents of the area within the jurisdiction of the prime sponsor or the entity designating such area (determined in the same manner as under section 119(b) of the Housing and Community Development Act of 1974); or

"(D) the area to be designated is a rural area of the United States, and the prime sponsor or entity after consideration of—

"(i) the proportion of low-income farm families to the total number of farm families residing in the area,

"(ii) the relationship of income levels of the families in the area to general levels of income in the United States,

"(iii) the extent to which rural development projects have previously been located in such area under programs administered by the Department of Agriculture,

"(iv) the current and prospective employment opportunities available in such area,

"(v) the availability of personnel in such area for supplemental employment,

"(vi) the extent of migration out of the area, and

"(vii) the proportion of the population of such area which has been receiving public assistance from the Federal Government or from the appropriate State or municipality in which the area is located,

determines that the rural area is eligible to be designated.

"(d) The Secretary shall approve the designation of an enterprise zone submitted by a prime sponsor or an entity described in section 302(c) (1) (A) or (B) under subsection (b) of this section unless the Secretary determines that the information contained in the application fails to meet the requirements of subsection (c) of this section.

"PRIVATE INDUSTRY COUNCILS

"SEC. 706. (a) (1) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. The prime sponsor shall appoint members from industry and the business community (including small business and minority business enterprises), organized labor, community-based organizations, local economic development councils (such as those established under the Public Works and Economic Development Act of 1965), and educational agencies and institutions (particularly persons with expertise in on-site, industry specific vocational education) to serve on such council. Other members of the private industry council may be appointed by the prime sponsor from representatives of persons eligible to participate in activities under this title. In no event shall representatives of industry and business have less than a majority on the council, and, whenever possible, at least one-half of such industry and business representatives shall be representatives of small business. The private industry council may consist of members of existing or newly formed organizations and members of the prime sponsor planning council. Such council may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council.

"(2) For purposes of this subsection, the term 'small business' means any private, for-profit enterprise employing 500 or fewer employees.

"(b) The chairman of the private industry council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the prime sponsor planning council, and the chairman of the prime sponsor planning council (or the designee of the chairman) shall serve as an ex officio, nonvoting member of the private industry council.

"(c) Such council shall participate with the prime sponsor in the development and implementation of programs under this title, and shall consult with the prime sponsor with respect to other programs under this Act. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community-based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(d) The Secretary shall not, by regulation or otherwise, require that any prime

sponsor, in establishing such council, give a presumptive role to any particular organization.

"PROGRAM ACTIVITIES

"Sec. 707. (a) Prime sponsors receiving financial assistance under this title shall, consistent with section 703(b), carry out private sector initiatives to demonstrate the purposes of this title. Such activities shall augment private sector-related activities under title I, including arrangements for on-the-job training with small business concerns and other private employers. Such activities may include—

"(1) conducting, in cooperation with community-based organizations where feasible, programs of job training and placement with small business concerns and other private employers;

"(2) providing, in cooperation with community-based organizations, followup services with employees placed in private employment and small business concerns and other employers who hire recipients of services under this Act;

"(3) using direct contracts for training and employment programs with small business concerns and other private employers and private nonprofit organizations, including community-based organizations;

"(4) contracting with community-based organizations, local educational agencies, and other appropriate deliverers of private sector related services for training, and placement and other similar services;

"(5) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(6) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(7) developing a small business intern program to provide a practical training enabling youths and other individuals to work in small business firms to acquire first-hand knowledge and management experience about small business;

"(8) developing relationships between employment and training programs, educational institutions, community-based organizations, and the private sector;

"(9) conducting innovative cooperative education programs for youths in secondary and postsecondary schools designed to coordinate educational programs with work in the private sector;

"(10) developing and marketing model contracts designed to reduce the administrative burden on the employer and model contracts to meet the needs of specific occupations and industries;

"(11) coordinating programs under this title with other job development, placement, and employment and training activities carried out by public and private agencies, including community-based organizations;

"(12) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(13) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(14) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(15) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees

and employers beyond initial training periods;

"(16) providing technical assistance to private employers to reduce the administrative burden of employment and training programs;

"(17) disseminating information to private employers so that they may more fully use programs assisted under this Act; and

"(18) developing on-site, industry specific training programs supportive of industrial and economic development, in cooperation with State vocational education boards, if funds made available under this Act for such programs are supplemented, where feasible, by Federal, State, or local vocational education funds or by nongovernmental funds made specifically available for such programs, or both.

"(b) (1) The Secretary shall establish such procedures and regulations as may be necessary to assure that the total amount of administrative costs incurred by all prime sponsors in carrying out programs under this title does not exceed 20 percent of the total cost of carrying out all such programs.

"(2) The Secretary by regulation shall provide for necessary and reasonable limitations on administrative costs incurred by prime sponsors, which shall be designed to assure the effective operation of programs carried out by prime sponsors under this title, taking into account differing conditions in urban and rural areas. The administrative costs of any prime sponsor carrying out a program under this title may not exceed the limitations established by the Secretary under this paragraph, unless such excess costs are justified and documented in the approval of the prime sponsor's program.

"(c) Activities under this section may include upgrading and retraining in accordance with the provisions of part C of title II. Not more than 15 per centum of the funds available for this title may be used for programs under this subsection."

Sec. 3. Section 112 of the Comprehensive Employment and Training Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1983, 1984, and 1985 to carry out the provisions of title VII." ●

● Mr. WEICKER. Mr. President, I am pleased that the Senator from Kansas and I today are introducing the "Private Sector Opportunities Act," a bill to target private sector job training opportunities at unemployed residents of distressed urban and rural areas and to focus such activities upon small business in collaboration with community-based organizations.

This bill is the product of a joint effort on the part of the Senator from Connecticut and the Senator from Kansas and grows out of our shared commitment to improve employment and training opportunities in the private business sector, particularly in small business.

Mr. President, four premises underlie the "Private Sector Opportunities Act":

First, that federally funded employment and training programs should be designed primarily to improve the opportunity of the unemployed to obtain productive jobs in the private sector of our economy, where the vast majority of jobs are located;

Second, that community based organizations (CBO's) the private, nonprofit, voluntary sector, and they are clearly defined at section 702 of our bill, are uniquely situated to assist in the delivery

of private sector-oriented employment, training, and employability development services for those most in need;

Third, that small businesses, which account for 80 percent of the net new jobs created in our economy, should be the primary focus of title VII placement and job training activities; and

Fourth, that private sector job-related services ought to be concentrated on unemployed residents of areas of pervasive economic distress—"enterprise zones," if you will—located within prime sponsor jurisdictions.

EXPLANATION OF MAJOR PROVISIONS

The "Private Sector Opportunities Act" proposes to improve upon and extend the very promising concept embodied in title VII of the Comprehensive Employment and Training Act (CETA) which was enacted in 1978. That title aims to enhance private sector job training and placements through the establishment of local private industry councils (PIC's), which have the responsibility, with CETA prime sponsors, for administering Federal funds for private sector job-related activities. The PIC's are composed of representatives of local business, labor, education agencies and community-based organizations, who participate with the prime sponsor in the development and implementation of title VII programs.

Let me make clear, Mr. President, that the bill we are introducing today would maintain the existing PIC structure and responsibilities intact. I do not think it wise to make abrupt changes in that framework after less than 3 years of experience with it. Nevertheless, our bill proposes to make some changes in the thrust of the title VII delivery system and the program activities—mainly to improve the small business orientation and to place greater reliance on the community based organizations. And, of course, our approach to the determination of participant eligibility would represent a fundamental change in present law.

The "Private Sector Opportunities Act" proposes to encourage more explicitly efforts to reach out to the local small business community for job placements and on-the-job training contracts and related activities. When title VII was enacted in 1978 we did not have the benefit of the research conducted recently by Prof. David Eirch of MIT, which demonstrates conclusively that small business is the engine of new net job generation in our country, particularly in the older cities. At several places in our bill, therefore, particularly with respect to the program activities, prime sponsors and private industry councils are encouraged to put their emphasis on contacts with the small business sector, by far the most fruitful source of job opportunities for those in need.

Another important change proposed in our bill is to strengthen considerably the role of community based organizations (CBO's). The CBO's would be given more responsibility for participation in the delivery of title VII program activities and services, where feasible, and would be built into the PIC planning process on a consultative basis in addi-

tion to their present membership status. Our intent is very clear in the language of the statement of purpose in section 701 and elsewhere in the bill.

This is critically important in recognition both of the exemplary record of CBO's in providing employability development services and of the necessity of having community input in the designation of the enterprise zones that are to be the basis for determining participant eligibility. Furthermore, this step would be fully consistent with the evolution of CBO's in receiving special consideration as CETA subgrantees under the Schweiker-Javits amendments and in having mandated membership on PIC's under the Dole amendment in 1978.

The Private Opportunities Act would change the method of participant eligibility determination. Under present law individuals are eligible to participate in the program if they meet a rather rigid income test as well as an unemployment test. More specifically, individuals must have earned less than 70 percent of the BLS lower living standard budget, which is akin to a "poverty" status.

As an alternative, we propose to authorize prime sponsor local governments to designate, in consultation with PIC's and CBO's, local distressed area "enterprise zones," which will be the basis of participant eligibility determination. All unemployed residents of such areas would be eligible for title VII training and placement services, thereby targeting our private sector job-related services at the most disadvantaged areas within the jurisdiction of a prime sponsor.

Since local governments at their discretion could designate several "enterprise zones," provided each met the criteria set forth in section 705 of the bill, we would insure that unemployed residents of all distressed areas served by a given prime sponsor would be eligible to participate in the program.

Once title VII services are targeted exclusively at residents of economically distressed areas, it is not necessary to have the further refinement of the 70 percent income test for individuals. Accordingly, we do not propose to extend that test in this bill.

Substitution of an area test for the present individual income test would provide much needed flexibility for prime sponsors and private industry councils in selecting and referring for training eligible individuals. While the focus would continue to be on those most in need of such services, the opportunity for participation could be extended to a broader range of those in need. Moreover, area-wide eligibility determination is fully consistent with recent moves toward providing greater autonomy to local governments in the administration of certain federally funded programs.

I wish to make clear, Mr. President, that our adoption of the now-popular term "enterprise zones" does not imply approval of other legislation bearing that name, specifically the "Urban Jobs and Enterprise Zone Act." While I believe the concept suggested by the sponsors of that bill is an intriguing one, I feel

it must contain a human capital dimension if it is to be of any help either to the residents of distressed areas or to businesses located in such areas. Small business requires a supply of trained workers at least as much as they need tax incentives to boost productivity.

To be sure, tax-related incentives may be of some marginal benefit to small business development in distressed areas—but they must be supplemented by human capital development efforts, such as those being suggested by Senator DOLE and me. I hope very much the sponsors of enterprise zone legislation in the House and Senate will study our bill and consider how it may accord with their own ideas.

In any event, we have decided to adopt the nomenclature because we agree that Federal policies need to be more selectively targeted at residents of economically distressed places—and the "enterprise zone" concept advances the thinking on that fundamental point.

Another reason why I believe we must consider going to area targeting is that I am deeply concerned about the effects of sharp cutbacks in economic development and employment programs during a time of rising unemployment. I think the President is right that a recession has begun and I note some projections that unemployment could reach 8 percent or higher, particularly in certain regions and cities. Moreover, there is a good chance that the recession could persist well into 1982, putting great hardships on residents of the more seriously affected areas, at the same time as other Federal aid programs are cut back.

Even if the macroeconomic strategy and long-term goals of the recovery program succeed, there may be a very large window of vulnerability for the at-risk populations and it may exist for some time. For this reason, we must put in place a program that at the very least will prepare unemployed residents of distressed areas to take part in the job opportunity growth of this decade. And, if the administration's program does not measure up to the expectations, and unemployment increases too sharply, in the inner cities and elsewhere, we will have another string for our bow, so to speak, to ameliorate the adverse consequences.

In sum, Mr. President, we are seeking a 3-year extension and some modification of title VII of CETA. We know the administration will be submitting its own CETA reauthorization bill, which will no doubt go considerably beyond the scope of this legislation. We do not suggest that the Dole-Weicker bill is the final word on CETA or on title VII, but we do hope its basic premises will be given careful consideration by the administration and by the Senator from Indiana and the Senator from Ohio, chairman and ranking minority member respectively of the Subcommittee on Employment. And we invite our colleagues to join with us in support of the Private Sector Opportunities Act.●

By Mr. SASSER (for himself and Mr. BAKER):

S. 1798. A bill to amend the Flood Control Act of May 15, 1928, to authorize im-

provements in the Memphis Harbor; to the Committee on Environment and Public Works.

MEMPHIS HARBOR LEGISLATION

Mr. BAKER. Mr. President, I am today joining my distinguished colleague from Tennessee in introducing legislation to authorize navigation improvements at Memphis, Tenn. These improvements of the Port of Memphis are consistent with recommendations made by the Mississippi River Commission in its report dated May 24, 1977.

The Port of Memphis handles more than 12 million tons of freight each year. Current projections indicate a steady increase in traffic over the next 20 years and the Memphis harbor and waterfront must be expanded to handle this growth.

The project authorized by this bill consists of constructing a new channel into President's Island and placement of dredged material to provide 1,000 acres of additional landfill for waterfront development. Currently there is almost no space left on President's Island for further development. The expansion of President's Island is necessary to allow new industrial growth and development along the Memphis waterfront.

Industrial growth is expected to be significant in Memphis in the next decade. For example, the Memphis Gas, Light, & Water synthetic fuels plant will locate on President's Island, which will spur industrial growth in the area. As that facility is constructed, the need for additional waterfront space will become ever more critical.

The bill we are introducing provides for local financial contributions to fund approximately 50 percent of the project costs. I know that the Committee on Environment and Public Works is working on legislation which may change the Federal/non-Federal funding requirements for dredging operations. When such changes are enacted, the funding approach for this project will be modified to reflect the new requirements.

The Memphis harbor improvements will enhance the Port of Memphis which is a leading port on the inland waterway system. President's Island is an important industrial and commercial asset to the mid-South and its expansion will bring significant industrial development and growth to the area.

By Mr. DECONCINI:

S. 1799. A bill to declare that the United States holds in trust for the Pascua Yaqui Tribe of Arizona certain land in Pima County, Ariz.; to the Committee on Energy and Natural Resources.

LAND HELD IN TRUST FOR THE PASCUA YAQUI TRIBE OF ARIZONA

● Mr. DECONCINI. Mr. President, I am proposing legislation that will transfer 570 acres of Bureau of Land Management land located in Pima County Ariz., to the Pascua Yaqui Tribe of Indians. This land would be held in trust by the United States for the tribe and become part of its reservation.

During the 95th Congress I introduced the Senate bill that ultimately became Public Law 95-375, which provided for Federal recognition of the tribe, created a 202-acre reservation to be held in

trust by the United States, and provided a process for establishing a tribal government. During consideration of the statute, it was projected that the reservation would accommodate approximately 600 tribal members. However, presently there are nearly 1,000 enrolled members living within the 202 acres. Because of the limited amount of land, the tribe has been forced to house two and sometimes three families in one dwelling, which needless to say can create any number of problems. Further, a considerable number of tribes 5,000-plus enrolled members would prefer to join the 1,000 members already living on the reservation. Thus, enactment of this bill would enable these widely scattered tribal members to unite with their tribe and benefit from the job opportunities and other social and economic advantages now largely restricted to those who live on the reservation.

This 570 acres of BLM land consists of two separate parcels—one of 10 acres, and one of 560 acres. The 10-acre parcel is bounded on the east and the south by the existing reservation. The 560-acre parcel has a quarter mile common boundary with the reservation on the west. The tribe will use this additional land for housing, governmental and community services, and commercial, agricultural and industrial development.

The tribe is presently establishing a small commercial landscape nursery on existing reservation land. In order to accomplish this a baseball field had to be dismantled. The additional land will permit the tribe to expand its economic base by taking advantage of various light industries that have expressed an interest in locating on the reservation which would provide employment for tribal members. The Pascua Yaqui people have demonstrated a desire and ability to help themselves, passage of this bill will further enhance their efforts.

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

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

S. 1799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to all valid existing rights, all right, title, and interest of the United States in the following described tracts of lands shall be held by the United States in trust for the Pascua Yaqui Tribe of Arizona and shall be a part of the reservation of such tribe:

- (1) the southeast quarter northeast quarter northwest quarter of section 24;
- (2) the southwest quarter northwest quarter of section 24;
- (3) the northeast quarter northeast quarter south half northeast quarter north half southeast quarter south half northwest quarter and southwest quarter of section 23; and
- (4) the east half southeast quarter of section 22,

all in township 15 south, range 12 east, Gila and Salt River meridian.

Sec. 2. The State of Arizona shall exercise criminal and civil jurisdiction over such lands as if it had assumed jurisdiction pursuant to section 7 of the Act of August 15, 1953 (67 Stat. 588), as in effect prior to its

repeal by the Act of April 11, 1968 (82 Stat. 79). ●

By Mr. DECONCINI:

S. 1800. A bill to allow an Indian tribe to enact laws relating to the descent and distribution of restricted Indian lands located within the reservation of such tribe, and for other purposes; to the Select Committee on Indian Affairs.

ENACTMENT OF LAWS RELATING TO DISTRIBUTION OF INDIAN LANDS

● Mr. DECONCINI. Mr. President, I am proposing legislation to enable Indian tribes to adopt codes of laws relating to heirship, probate administration, and prevention of fractionation of interest with regard to trust or restricted property within reservation boundaries.

This bill will enable Indian tribes, who elect to do so, and subject to the approval of the Secretary of the Interior, to adopt a code of laws to, first, govern the inheritance or descent and distribution of trust or restricted property within the tribe's reservation; second, to provide for the administration and probate of estates including such property; and third, to provide a mechanism to restrict the devise or inheritance of uneconomically and unmanageably small fractional interests in such property.

Generally, rules governing descent and distribution and the administration of decedents' estates have been determined at the local level where particular cultural and normative values are best recognized and understood. The probate laws which have been enacted by the United States with regard to Indian people do not take into account the particular differences among Indian tribes.

Nor do they recognize the right of Indian tribes and communities to make their own laws and be governed by them in regard to a particularly significant event in the lives of people. How land is to be owned, to whom it is to be distributed, the power of a person to make heirship determinations within the scope of his cultural understanding, are all problems that ought to be resolved at a tribal level.

As the United States does not make probate rules and procedures for the governance of the people of any particular State, or for people of all States, so it should not make rules and procedures regarding the probate of estates of Indian people in circumstances where the Indian tribes are willing and able to undertake this governmental function.

I would assume that not all Indian tribes are prepared to undertake the enactment and administration of rules of descent and distribution and the probate of a decedent's estate. However, those tribes that are prepared to undertake such responsibility should be allowed to proceed.

The administration of probate estates would, in most cases, involve mere ministerial acts of marshaling and distributing assets to those entitled to them under the laws of descent and distribution or by the terms of the decedent's will. Only in the rare case where conflict arises between parties to a probate administration would it be required that the dispute be placed before the tribal

court for adjudication. Thus, in my view, few cases would need to be referred to a judge.

Many tribes have codes of laws which provide the procedures for the administration of probate estates exclusive of trust or restricted property. There should be no significant increase of complexity in such procedures by adding trust and restricted property to the authority of the administrator and the judge.

The general policy of the United States as expressed in Public Law 93-638, that Indian tribes should be able to determine their own destiny and govern their own lives has, to the extent it has been implemented, been successful. The almost exclusive control of the United States in matters that involve the rules of descent and distribution and the probate of decedent's estates is one of those areas where the policy of Indian self-determination has not been practiced. If the national goal of self-determination and self-sufficiency for Indian tribes is to be achieved, the tribes should have the authority to enact codes of laws regarding heirship, probate administration and prevention of fractionation of land.

The General Allotment Act of 1887 provided the legal framework by which discrete parcels of land within Indian reservations were given over to individual Indian ownership under the trust of the United States. Pursuant to this policy, land in eight Indian reservations located within the State of Arizona was allotted to individual Indian ownership (see exhibit A).

The Salt River Pima-Maricopa Indian Community in Arizona is a perfect example of how this allotment policy impacted Indian reservations and the respective tribal governments. Between 1911 and 1922 47 percent of the land within the Salt River Pima-Maricopa Indian Community's reservation was allotted.

At the time of the issuance of those allotments, there were 943 original allottees and 943 original interests. By 1980 the number of owners of the original allotments had reached 2,323 and the number of interests had increased to 26,300.

Over a period of approximately two generations the allotted land of the Salt River Pima-Maricopa Indian Community has become fractionated to such an extent that ownership of many of the interests is nominal. This phenomenon results from the fact that Indian people have rarely used the will-making device and thus land goes by intestate succession to all of the heirs as tenants in common.

Land interests, no matter how small, are held by the owners because of the difficulty of disposition during life and at death the process is repeated so that there begins to appear a geometric progression of fractionation of land interests. That process is operating within the Salt River Pima-Maricopa Indian Community and in other Indian communities.

Exhibit B provides an example of the effect such fractionation has on an allotment of slightly over 10 acres. The largest owner of the approximately 240 owners of the allotment owns just over 1 1/4 acres. The smallest owner owns just under 1 1/4 square feet. If the land were

valued at \$2,000 an acre, the smallest owner's interest would be worth just in excess of 5 cents.

There are 1,340 owners within the Salt River Indian Community who own 1 percent or less of an allotment. Together they own 7,534 interests in allotments for a total of 367 acres (exhibit C). As the generations go forward, there will be additional and smaller parcels of land in individual ownership.

As the interests in land become smaller, the ability to manage the land becomes more difficult. If the land is to be productive, it must be accumulated into one interest either through a lease or an agreement of the allottees.

A great burden is placed upon allotted landowners who seek to utilize their land when they must locate owners of small fractionated interests and persuade them to agree to developing land in which they have virtually no interest.

Approval of landowners is essential to securing unity of action in regard to land use and the cost of administering land use agreements becomes greater as fractionation becomes greater. The process of securing consent for the Secretary of the Interior to allow rights-of-way across allotted land likewise becomes more and more difficult.

By the 1950's, it became virtually impossible for an individual Indian landowner to farm the land he owned. As a result, there is now on the Salt River Indian Reservation only one or two small plots of land which are commercially farmed by the owner of the land.

All the other irrigated acreage on the reservation is farmed by nonowners who have, with the help of the Land Management Department of the Salt River Indian Community, accumulated the interests of land in a lease so that it may be economically farmed.

Approximately 50 percent of irrigated land within the Salt River Indian Community is now farmed by community members with the balance being farmed by non-Indians. In the non-Indian world one of the major benefits of land ownership is the ability to use the land, but in the Indian world, on allotted land, that benefit is often illusory.

Approximately 1 year ago the Salt River Indian Community undertook a major study of land fractionation on the Salt River Reservation. Some of the results of that study are incorporated in the previously mentioned exhibits.

The study undertook not only to find the data relevant to land fractionation, but to determine the views of members of the community in regard to the problem of fractionation. As a result of the accumulation of the data and the discussions among community members, the community council has determined that further fractionation of land interest should be limited and there ought to be a minimum percentage of any allotment which is owned by any single individual.

Thus, this proposed legislation is an effort to enable the Salt River Indian Community and other Indian tribes and communities who see a need, to limit fractionation of interests to areas no less than 1 percent of the original allotment.

Under this proposal any Indian com-

munity or tribe could adopt a code of laws which would provide that any interest devised to any one distributee which amounted to 1 percent or less of the original allotment would be sold to the other landowners of that allotment, thus increasing their interest in the allotment. If the allottees with larger interests in the allotment did not undertake the purchase of the interest of 1 percent or less, it would be sold to the Indian tribe or community in whose reservation the allotment is located.

As a result the number of very small interests in allotments would decrease until there was no interest in an allotment less than 1 percent of the size of the original allotment, and there would be established a minimum size of interest in an allotment that could be devised to any one distributee.

This bill is not intended to divest individual ownership. Rather it is intended to limit the number of very small interests in allotments for the purpose of increasing the benefit and use of land interests among allotted landowners. It is hoped that other cotenants in an individual allotment would increase their interests through the purchase of the very small interests that would be sold.

Upon enactment of this bill, Indian tribes would be able to take charge of the entire probate procedure, subject to uniform Federal regulation. This process would allow the tribes to educate members in the making of wills so that interests in allotments could be devised in large enough shares to avoid the loss of the interest to any distributee.

This educational process can best be dealt with at the local level by tribal members counseling other tribal members. The failure of the Federal effort in this regard is apparent from the data which reveal that fractionation has increased unabated through the years, ever decreasing the utility of land ownership to Indian people.

Further, the proposed legislation provides for secretarial approval of any code of laws dealing with the subject matter. Such approval would be pursuant to regulations adopted by Secretary of the Interior.

Mr. President, I ask unanimous consent that exhibits A, B, and C and the bill be printed in the RECORD at this point.

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

S. 1800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress hereby finds that—

(1) Indian lands held in trust or subject to restrictions on alienation are subject to increasing diminution of utility as a result of increasing fractionalization of interest in such land through the processes of descent or devise;

(2) the administration or the probate of any estate of a decedent which includes within the assets of such estate trust or restricted property located within Indian reservations is performed by agencies of the United States in derogation of the right of Indian tribes and communities to exercise the normal powers of self-government within the special relationship between the United States and the various Indian tribes and communities; and

(3) various Indian tribes and communities and their members have a variety of cultural and normative concerns regarding the descent and devise of trust or restricted property which are neither uniform among the various Indian tribes of applicable Federal and communities nor satisfied by the uniformity or State statutes which may govern descent and devise within such Indian tribes and communities.

(b) The Congress hereby declares that it is the policy of the Congress to affirm to Indian tribes and communities the right to enact laws—

(1) relating to—

(A) the testamentary disposition or descent and distribution of any Indian land held in trust or subject to restrictions on alienation which is located within the boundaries of an Indian reservation, and

(B) the administration and probate of any estate of a decedent which includes such land among the assets of such estate, and

(2) which restrict the fractionization of interests in trust or restricted land within the boundaries of an Indian reservation.

Sec. 2. (a) Section 4 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 464), as amended, is further amended—

(1) by striking out "Except" and inserting in lieu thereof "(a) Except", and

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

"(b) (1) Notwithstanding subsection (a) and any other provision of law, the recognized governing body of any Indian tribe may adopt any law which, if approved by the Secretary of the Interior, shall apply to—

"(A) the testamentary disposition or descent and distribution of any Indian land held in trust or subject to any restriction on alienation, or

"(B) the administration and probate of any estate of a decedent which includes such land among the assets of such estate.

"(2) Except as provided in subsection (c), no law shall be adopted under this subsection which, for the purpose of preventing the fractionization of interests in Indian land held in trust or subject to restrictions on alienation, prevents the transfer by descent or devise of an interest in such land.

"(c) For the purpose of consolidating interests in any Indian land held in trust or

subject to restrictions on alienation, the recognized governing body of any Indian tribe may, with the approval of the Secretary of the Interior, adopt a law which requires any person holding a limited interest in such land to sell such interest to one of the following (in the order of preference indicated) who offers to purchase such interest at a price which equals or exceeds the fair market value of such interest:

"(1) All the other co-owners of such land.

"(2) Any co-owner of such land.

"(3) The Indian tribe on whose reservation such land is located.

"(d) (1) For purposes of this section, the term 'limited interest' means an interest in land which is equivalent to the entire fee interest in a number of acres of the original allotment of which such land is a part which is less than 1 percent of the total acreage of such original allotment.

"(2) (A) The Secretary of the Department of the Interior shall prescribe regulations regarding the procedures to be followed by the Secretary in determining whether to grant approval of any law proposed by the recognized governing body of an Indian tribe under subsection (b) or (c).

"(B) If any law proposed by the recognized governing body of any Indian tribe and submitted to the Secretary of the Interior for approval under this section is neither granted nor denied approval within 90 days after the date on which such proposed law was so submitted, such proposed law shall be treated, for purposes of subsections (b) and (c), as having been approved by such Secretary."

(b) The Secretary shall prescribe the regulations required under section 4(d) (2) of such Act of June 18, 1934, within 180 days of the date of enactment of this Act.

EXHIBIT A

State of Arizona Indian allotted trust lands

Tribe and reservation	Number of acres allotted	Percent of reservation
Yavapai and Apache, Camp Verde	80	12
Mohave and Chemehuevi, Colorado River	5,958	2
Pima and Maricopa, Gila River	94,467	26
Navajo, Navajo	722,854	5
Papago, Papago	41,003	1
Pima and Maricopa, Salt River	24,306	47
Apache, San Carlos	960	1
Yavapai, Yavapai	160	10

EXHIBIT B

Salt River Pima-Maricopa Indian Community fractionated allotment, SR-678

Ownership comparison, SR-678	Largest	Smallest
	\$190,512,000	\$8,575
Fractionated interest	3,048,192,000	3,048,192,000
Percent interest	.0625	.00000281314
Square feet of land owned (if partitioned)	27,497.25	1.2377
Square yards of land owned (if partitioned)	3,055.25	.1375
Lease payment received per year	40.79	.0018
Dollar ownership (at \$2,000/acre)	1,262.50	.0568

EXHIBIT C

LANDOWNER, INTERESTS AND ACRES AS A PERCENT OF ALLOTMENT

Percentage of interest of allotments	Number of owners	Number of interests	Number of acres	Accumulated number of owners	Accumulated number of interests	Accumulated number of acre	Percentage of interest of allotments	Number of owners	Number of interests	Number of acres	Accumulated number of owners	Accumulated number of interests	Accumulated number of acres
5.75 plus to 6.00.....	4	16	12	1,999	16,181	3,384	2.75 plus to 3.00.....	23	526	181	1,758	12,746	1,569
5.50 plus to 5.75.....	11	280	187	1,995	16,165	3,372	2.50 plus to 2.75.....	8	75	24	1,735	12,220	1,388
5.25 plus to 5.50.....	6	46	33	1,984	15,885	3,185	2.25 plus to 2.50.....	56	921	291	1,727	12,145	1,363
5.00 plus to 5.25.....	8	36	24	1,978	15,839	3,152	2.00 plus to 2.25.....	49	583	155	1,671	11,224	1,072
4.75 plus to 5.00.....	59	724	461	1,970	15,803	3,128	1.75 plus to 2.00.....	33	431	101	1,622	10,641	918
4.50 plus to 4.75.....	2	150	80	1,911	15,079	2,667	1.50 plus to 1.75.....	67	770	157	1,589	10,210	816
4.25 plus to 4.50.....	6	113	68	1,909	14,929	2,586	1.25 plus to 1.50.....	56	841	141	1,522	9,440	660
4.00 plus to 4.25.....	41	623	345	1,903	14,816	2,518	1.00 plus to 1.25.....	126	1,065	152	1,466	8,599	519
3.75 plus to 4.00.....	20	199	98	1,862	14,193	2,173	0.75 plus to 1.00.....	140	1,040	120	1,340	7,534	367
3.50 plus to 3.75.....	20	345	153	1,842	13,994	2,075	0.50 plus to 0.75.....	192	1,498	118	1,200	6,494	248
3.25 plus to 3.50.....	22	362	146	1,822	13,649	1,922	0.25 plus to 0.50.....	347	1,897	89	1,008	4,996	130
3.00 plus to 3.25.....	42	541	207	1,800	13,267	1,776	0.00 plus to 0.25.....	661	3,099	41	661	3,099	41

ADDITIONAL COSPONSORS

S. 1634

At the request of Mr. COCHRAN, the Senator from South Carolina (Mr. HOLLINGS), the Senator from Idaho (Mr. McCLURE), the Senator from Nevada (Mr. CANNON), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of S. 1634, a bill to incorporate the National Federation of Music Clubs.

S. 1698

At the request of Mr. DENTON, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

SENATE RESOLUTION 234—RESOLUTION TO PAY A GRATUITY TO GERALD E. HOOTS

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 234

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Gerald E. Hoots, widower of Sharon L. Hoots, an employee of the Senate at the time of her death, a sum equal to two months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 235—RESOLUTION TO PAY A GRATUITY TO JOAN C. GIANNINI

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 235

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Joan C. Giannini, widow of John J. Giannini, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 236—RESOLUTION TO PAY A GRATUITY TO JAMES L. McCLAIN, PHILIP W. McCLAIN, DONALD R. McCLAIN, AND JOHN C. DAMES

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was referred placed on the calendar:

S. Res. 236

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to James L. McClain, Philip W. McClain, Donald R. McClain, and John C. Dames, sons of Edna M. Dames, an employee of the Senate at the time of her death, a sum to each equal to one-fourth of one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 237—RESOLUTION TO PAY A GRATUITY TO KENNETH S. LANDON, RICHARD J. LANDON, AND THOMAS C. LANDON

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 237

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Kenneth S. Landon, Richard J. Landon, and Thomas C. Landon, sons of Angioletta M. Landon, an employee of the Senate at the time of her death, a sum to each equal to one-third of one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

NOTICES OF HEARINGS

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. PACKWOOD, Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee held a hearing this morning at 9:30 a.m. I scheduled three bills for this hearing. The three bills are:

S. 1035, introduced by Senator MATHIAS, to provide an income tax check-off for contributions to the Na-

tional Endowment for the Humanities and the National Endowment for the Arts.

S. 1595, introduced by Senators INOUE and STEVENS, to provide an income tax check-off for the Olympics.

S. 1745, introduced by Senators ARMSTRONG and HART, to provide an exemption from the divestiture requirements of the excess business holdings rules applicable to private foundations.

The purpose of this statement is to briefly explain the issues raised by these bills. This may help you chart the progress to tax legislation before the Taxation Subcommittee. It also helps assure greater public awareness of tax bills coming before hearings.

S. 1035—INCOME TAX CHECKOFF FOR CONTRIBUTIONS TO THE NATIONAL ENDOWMENT FOR THE HUMANITIES OR THE NATIONAL ENDOWMENT FOR THE ARTS

S. 1035, introduced by Senator MATHIAS, provides an income checkoff for contributions to the National Endowment for the Humanities or the National Endowment for the Arts. S. 1035 provides that any taxpayer who files an income tax return can elect to designate any portion of a refund due to be paid to either the National Endowment for the Arts or the National Endowment for the Humanities or payable equally to both. The bill also requires that the income tax return forms fully inform taxpayers of this new procedure. Funds contributed pursuant to this bill reduce the refund the taxpayer receives and do not reduce income tax payments.

Under S. 1035, in addition to designating a portion of an income tax refund for this purpose, a taxpayer can also forward a cash contribution with his income tax return to be used by either the National Endowment for the Arts or the National Endowment for the Humanities.

S. 1595—INCOME TAX CHECKOFF FOR THE OLYMPICS

S. 1595, introduced by Senators INOUE and STEVENS provides an income tax checkoff for the U.S. Olympic Development Fund. S. 1595 provides that taxpayers could elect to contribute \$1 of their income tax refund for the U.S. Olympic Development Fund. The bill also provides that a taxpayer could forward a \$1 cash contribution for the U.S. Olym-

pic Development Fund with the income tax return.

Unlike the Presidential Election Campaign Fund the checkoff provided in S. 1595 reduces the refund the taxpayer would receive rather than taxes to be paid.

S. 1745—EXEMPTION FROM THE DIVESTITURE REQUIREMENTS OF THE EXCESS BUSINESS HOLDINGS PROVISIONS FOR THE EL POMAR FOUNDATION

S. 1745, introduced by Senators ARMSTRONG and HART, provides a limited exemption from the divestiture requirements of the excess business holdings rules applicable to private foundations. Under the excess business holdings rules, if, on May 26, 1969, the combined holdings of a business by a private foundation and disqualified persons exceed 50 percent, then divestiture of the excess business holdings is required over a stated transitional period. The transitional period applicable to the El Pomar Foundation of Colorado Springs, Colo., requires the El Pomar Foundation to reduce its holdings in the Broadmoor Hotel, in Colorado Springs, to 50 percent by 1989 and 35 percent by 2004. S. 1745 exempts this foundation from the divestiture requirements.

The El Pomar Foundation of Colorado Springs, Colo., is the intended beneficiary of the bill. However, any private foundation that meets the requirements of the bill would also qualify.

Mr. President, I request unanimous consent that the witness list for today's hearing be inserted in the RECORD following my remarks.

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

COMMITTEE ON FINANCE—SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

(Public hearing on miscellaneous tax bills, Friday, October 30, 1981, 9:30 a.m.)

WITNESS LIST

The Honorable Ted Stevens (R.-Alaska).
The Honorable Daniel K. Inouye (D.-Hawaii).

The Honorable Charles McC. Mathias, Jr. (R.-Maryland).

The Honorable John E. Chapoton, Assistant Secretary of the Treasury for Tax Policy.

S. 1595—U.S. OLYMPIC DEVELOPMENT FUND CHECKOFF ACT OF 1981

A panel consisting of: On behalf of the United States Olympic Committee:

Robert Kane, Past President of the United States Olympic Committee, of New York and Florida.

Chris Knepp, Chairman of the Athletic Advisory Council to the United States Olympic Committee, of Texas.

Donna deVarona, Olympic athlete, of New York.

Accompanied by Edwin Moses, Olympic athlete, of California.

S. 1745

William J. Hybl, Vice President and Executive Director of El Pomar Foundation of Colorado Springs, Colorado.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATION AND GENERAL OVERSIGHT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommit-

tee on Investigations and General Oversight, of the Labor and Human Resources Committee, be authorized to hold a hearing on oversight of the National Cancer Institute, during the session of the Senate on Friday, November 6 at 10 a.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations, of the Governmental Affairs Committee, be authorized to meet during the session of the Senate on Monday, November 2 at 9:30 a.m., to discuss labor-management corruption.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate permanent Subcommittee on Investigations, of the Governmental Affairs Committee, be authorized to meet during the session of the Senate on Tuesday, November 3 at 9:30 a.m., to discuss labor-management corruption.

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

SUBCOMMITTEE ON INVESTIGATIONS AND GENERAL OVERSIGHT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Investigations and General Oversight, of the Labor and Human Resources Committee, be authorized to hold a hearing on oversight of the National Cancer Institute, during the session of the Senate on Tuesday, November 3 at 9 a.m.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, November 5, to hold a hearing on Senate Joint Resolutions 110, 117, 118, and 119, resolutions dealing with abortion.

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

ADDITIONAL STATEMENTS

CONGRESSIONAL RESTRAINTS ON THE JUDICIARY

● Mr. EAST. Mr. President, I wish to bring to the attention of my colleagues an interesting article from the summer 1981 issue of *Modern Age*, a quarterly review published under the auspices of the Intercollegiate Studies Institute. The Intercollegiate Studies Institute is one of the leading conservative intellectual organizations in the Nation and its publication, *Modern Age*, features some of the best in current conservative thinking.

The article which I commend to your attention is entitled "Chaining the Court to the Constitution." As the author points out, "The Federal Judiciary has been courting constitutional disaster by reading its own social predilections into the Nation's foundational document." The

purpose of the article is to discuss the appropriate checks on the judicial usurpation of power.

The analysis contained in the article leads to the following conclusion:

The Framers of the Constitution forged a strong chain to bind the Supreme Court down to its circumscribed role in constitutional government. That chain, the power to make exceptions in and regulate federal court appellate jurisdiction, will only restrain, however, if laid on the Court's shoulders. Congress must execute its duty.

Mr. President, I believe that this article represents a significant scholarly contribution to the public dialog on the problem of restraining the activist Federal judiciary, and I ask that it be printed in the RECORD.

The article follows:

CHAINING THE COURT TO THE CONSTITUTION
(By Randall R. Rader)

Has the Supreme Court acted unconstitutionally? If this nation's highest court is the sole arbiter of whether actions legally comply with the Constitution, what prevents the Court itself from acting beyond constitutional limits? This is not an idle hypothetical question. In its 1938 decision, *Erie Railway Company v. Tompkins*, the Supreme Court branded its own course of conduct for nearly a century as unconstitutional. In fact, the Court called its own doctrine "an unconstitutional assumption of power by courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct."¹ If the Court, by its own admission, had unconstitutionally assumed power for nearly 100 years, perhaps other high judicial dogma need constitutional review.

If the Supreme Court has confessed one instance of stepping beyond the bounds of the Constitution, we are justified in asking what it may not have yet admitted. For instance, a single amendment to the Constitution has been stretched by the Court into several popularly questioned opinions.

The words "equal protection" in that amendment have been used to wrest from states and localities the decision of which school a child should attend.² The same words have been construed to permit programs favoring one race over another³ and to overturn more than 150 years of exclusive state power over apportionment of congressional districts.⁴ On occasion, this judicial body has not even bothered to interpret the Constitution itself, but only its "penumbras," to declare that children are not persons before birth.⁵

These interpretations are not defended as the intent of those who drafted the Constitution. Instead they are proclaimed as evidence that, in the hoary words of Chief Justice John Marshall, "[The Constitution must] be adapted to the various crises of human affairs."⁶ Raoul Berger probably responded to this argument most succinctly by stating that "at best Marshall's dictum represents a self-serving claim of power to amend the Constitution."⁷

The Framers of the Constitution did not pretend that their work was infallible. On the contrary, they provided within the document itself a framework for amendment. Article V, however, does not include a provision for five out of nine men on the Supreme Court to restructure the Constitution. Nonetheless a mere majority of the Court has been rewriting the Constitution for decades under the guise of interpretation. Washington was the first to warn against this in his Farewell Address:

"If in the opinion of the People, the dis-

Footnotes at end of article.

tribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way in which the Constitution designates. But let there be no change by usurpation; for though this in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."⁹

The "People" may change the constitution by the Article V method, but other revisions, such as by an interpreting tribunal, are "usurpations" in Washington's mind. Yet today the Supreme Court claims the right to disregard the express or implied intent of the Framers of the Constitution, leaving only a constitutional amendment by the prescribed Article V method as a sufficient means to alter the doctrines promulgated by five of nine men in black robes.

This calls forth our original question: Is there no effective check on usurpations of constitutional authority by the Supreme Court? Surely the approval of two-thirds of Congress and three-fourths of the states is not the only way to prevent the Court from overstepping its bounds. Indeed the framers of the Constitution did provide a more effective check on the judiciary. They authorized Congress to withdraw particular subjects or cases from the appellate jurisdiction of federal courts.

ARTICLE III, SECTION 2

Article III of the Constitution gives Congress authority over the appellate jurisdiction of federal courts. Section 2 lists the original jurisdiction of the Supreme Court and then proceeds: "In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, with such exceptions, and under such regulations as the Congress shall make." (Emphasis added.) Congress, therefore, is fully empowered by the Constitution to both "make exceptions" in and "regulate" Supreme Court jurisdiction in "all" cases beyond its original jurisdiction. With this language, the Constitution authorized Congress to decide which disputes were to be settled by state and local governments.

Under Article III, Congress may carve out narrow exceptions in Supreme Court appellate jurisdiction to prevent "unconstitutional assumptions of power." Congress could decide, for example, to deny the Court any jurisdiction to hear appeals in cases involving busing of school children, or reapportionment, or abortion, or voluntary prayer in public buildings. The resolution of these disputes would then be left to state and local courts.

The plain meaning of the constitutional language, however, is not the only indication that the Framers of the Constitution intended to give Congress this power to check the Supreme Court. Alexander Hamilton summarized the federal judicial power in the *Federalist Papers* and simultaneously reassured those who feared its reach:

"From this review of the particular powers of the federal judiciary, as marked out in the Constitution, it appears that they are all conformable to the principles which ought to have governed the structure of that department and which were necessary to the perfection of the system. If some partial inconveniences should appear to be connected with the incorporation of any of them into the plan it ought to be recollected that the national legislature will have ample authority to make such exceptions and to prescribe such regulations as will be calculated to obviate or remove these inconveniences." (Emphasis original)¹⁰

In Hamilton's estimation a mere "inconvenience" would warrant an exception in federal court appellate jurisdiction.

Acting within the letter and spirit of the Constitution and Hamilton's explanation of

the congressional check on the judiciary Congress passed the monumental Judiciary Act of 1789. This Act created the lower federal courts and concurrently limited the appellate jurisdiction of all federal tribunals, including the Supreme Court. Congress specified that the Supreme Court could only accept appeals in civil cases if more than \$2,000 was in contention. Moreover, Congress denied the Supreme Court any authority to hear appeals in criminal cases—an exception not altered by Congress until 1889. The Judiciary Act of 1789 was carefully crafted to ensure that most cases and controversies would be handled in state courts.

The Supreme Court itself has shown a clear understanding of its complete reliance on Congress for appellate jurisdiction. For instance, Chief Justice Oliver Ellsworth, a member of the Constitutional Convention Committee on Detail and later an author of the Judiciary Act of 1789 stated in *Wiscart v. D'Auchy*:

"Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise our appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the constitutional point of appellate jurisdiction, is simply, whether Congress has established any rules for regulating its exercise."¹¹

This eminent authority on the meaning of Article III made it undeniably clear that the Supreme Court hears appeals only with the permission of Congress.

Chief Justice Ellsworth was not alone in his reading of Article III. Chief Justice John Marshall, who seven years earlier delivered the opinion in *Marbury v. Madison*,¹² concurred with Ellsworth's sweeping analysis of the exceptions clause:

"The appellate powers of this Court are not given by the judicial act. They are given by the constitution. But they are limited and regulated by the judicial act, and by such acts as have been passed on the subject. When the first legislature of the Union proceeded to carry the third article of the constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court."¹³

The Supreme Court accepts as well today as one hundred years ago the principle that Congress rules with respect to the Court's appellate jurisdiction. Chief Justice Earl Warren affirmed in 1957 that "the existence of appellate jurisdiction in a specific federal court over a given type of case is dependent upon authority expressly conferred by statute."¹⁴

This review of comments on the meaning of Article III demonstrates that the words "exceptions and under such regulations as Congress shall make" have been construed with remarkable uniformity for the nearly two hundred years they have been in effect. To question a congressional withdrawal of appellate jurisdiction would require a constitutional interpretation far beyond the plain meaning or consistent historical understanding of those words. Congress has the power to hold the federal judiciary in check.

RECENT ATTEMPTS TO WITHDRAW JURISDICTION

During recent sessions, Congress has entertained several bills to limit federal court appellate jurisdiction. While these bills have occasionally been approved by one house of Congress, they have only rarely been enacted.

In the 96th Congress, the Senate passed a bill withdrawing federal court appellate jurisdiction over voluntary prayer in public buildings. When the House Judiciary Committee scheduled hearings on the measure, the Justice Department took it upon itself to send a memorandum criticizing the bill as unconstitutional. Despite the plain intent of Article III, the Justice Department found

an innovative interpretation (Is not this the problem in the first place?) of those precise words in the writings of Professor Henry M. Hart, Jr.

Professor Hart contends that the word "exceptions" implies that Congress could not authorize "exceptions which engulf the rule."¹⁵ In other words, Professor Hart argues that when the Constitution says that Congress can make "exceptions" to the appellate jurisdiction of the Court, it implies that there must be some aspect of the jurisdiction which Congress could not touch. While we might agree that Congress could not completely extinguish all federal court appellate jurisdiction when making "exceptions," we have to wonder how the Justice Department could conclude that the specific jurisdiction under consideration by the Committee must be just those kind of cases that the Framers of the Constitution meant to be beyond the power to except.

Even if we accept the Justice Department's reading between the lines of the Constitution, we surely should not fail to read the rest of the clause that Professor Hart and the Department seemed to overlook. The Constitution states that Congress may not only "make exceptions," but may also "regulate" appellate jurisdiction. The word "regulate" grants Congress the power to contract as well as expand appellate jurisdiction in the federal judiciary. Federal regulations in this day and age manage to take nearly everything away from many struggling businessmen. Surely the power of congressional regulation will encompass taking away jurisdiction over narrowly circumscribed classes of cases, such as those concerning busing of school children or voluntary prayer.

The Supreme Court itself parts company with the Justice Department's reading of the exceptions clause. In addition to the cases already mentioned, the Court acknowledged the congressional power to limit its appellate jurisdiction when it happened in 1867. This was the famous *McCordle* case. In this instance, a Southern editor held in military custody appealed from a denial of habeas corpus and threatened to undermine Congress' post-Civil War reconstruction program by challenging the constitutionality of the Military Reconstruction Act. Congress was acting to prevent a constitutional ruling by the Supreme Court. Despite the questionable motives of the bill, the Supreme Court could only dismiss the case for want of jurisdiction:

"We are not at liberty to inquire into the motive of the legislature. We can only examine into its power under the Constitution, and the power to make exceptions to the appellate jurisdiction of this Court is given by express words. What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the Court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining to the Court is that of announcing the fact and dismissing the cause."¹⁶

The Supreme Court apparently takes exception to the Justice Department's reading of the exceptions clause.

The Justice Department's memorandum cited *U.S. v. Klein*¹⁷ in an attempt to bolster their argument that the Supreme Court did not always honor the congressional prerogative to regulate appellate jurisdiction. *Klein* dealt with the validity of Lincoln's pardon of Confederates. Congress attempted to remove jurisdiction over cases pertaining to the pardon. The Court was not dealing with the exceptions clause alone, but also the pardoning power of the President in Article II of the Constitution. Also, unlike the *McCordle* case, Congress was trying to dictate the outcome of a case by eliminating some of the evidence—a matter peculiarly

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within the judicial province. Finally the Court in *Klein* stated unequivocally that "If it [the Congress] simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make such exceptions from the appellate jurisdiction as it should seem expedient. . . ."¹⁸

Klein would have no application to a congressional withdrawal of appellate jurisdiction to hear busing or abortion or reapportionment cases. These specific restrictions do not tamper with evidential matters preeminently within the scope of judicial activity. Moreover they are specific limitations on the "right of appeal in a particular class of cases." Therefore, to quote the *Klein* reasoning, "there can be no doubt that it must be regarded as an exercise of the power of Congress to 'make exceptions.'"

Finally, we should consider the logical implications of the Justice Department's reasoning. The Justice Department argues that abridging appellate jurisdiction, while perhaps permissible in statutory cases, could not be permitted in cases with constitutional issues. If Congress accepted the Justice Department distinction between cases springing from the Constitution and cases springing from federal statutes, the Supreme Court could defeat a jurisdiction removal simply by invoking the Constitution. In effect, the Court would enjoy the heady position of determining the extent of its own "power to declare the law." In other words, the Justice Department would make the Article III, Section 2, exceptions clause meaningless surplusage in the Constitution. The check on the Supreme Court would be lost. While the Justice Department may have no qualms about writing out of our nation's supreme document after 200 years a critical check on the judiciary, Congress should recognize, with Hamilton, Ellsworth, Marshall, Warren, and the rest, that the exceptions clause means what it says.

Before eliminating this check on federal court supremacy, the Justice Department should recall that the Supreme Court once ruled that a black man is not a person similar to the ruling about unborn children) and could be regarded as property.¹⁹ More recently the Court allowed Japanese-Americans to be incarcerated during World War II on the basis of their national origin.²⁰ If a future federal court wanted to return to these precedents, we would all be more secure knowing that Congress could halt the legal abrogation of rights.

The beauty of our Constitution is that no branch of government is unlimited. Each branch has the constitutional responsibility to monitor the others to prevent what Hamilton euphemistically called "inconveniences" in his *Federalist Papers* essay. If the Justice Department wants to eliminate a key congressional check on the judiciary, it had better recommend a constitutional amendment rather than just sending a memorandum to the Judiciary Committee chairman. Furthermore Congress should not sit comfortably back and let an Executive Branch memorandum tell it to quietly ignore its constitutional powers. Congress has every right to inform the Executive Branch that this is none of its business.

Congress simply should not avoid confrontation by allowing the Supreme Court unrestricted power to declare what the Constitution means. Congress has the authority and the implied obligation within the Constitution, specifically found in the exceptions clause, to let the Court know how the representative branch of government interprets the document. Congress has done so in the past, not only in the *McCardle* situation, but on other occasions it has stepped forward to abridge the Court's voice on specific problems. In 1839, Congress removed from federal court jurisdiction the decisions of the

Secretary of Treasury on tax disputes.²¹ In 1867, Congress provided that "no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court."²² In 1932, Congress structured the Norris-LaGuardia Act to deprive lower federal courts of the power to issue injunctions in certain labor disputes.²³ In 1934, Congress used the Johnson Act to qualify the power of the courts to enjoin public utility rates ordered by state agencies.²⁴ In 1942, Congress limited injunctions under the Emergency Price Control Act to an emergency court of appeals.²⁵ In 1974, Congress barred court challenges to the Alaska pipeline for crude oil based on environmental grounds.²⁶ While several of these restrictions apply solely to lower federal courts, the same principle applies to constitutional review by the Supreme Court as illustrated by the *McCardle* case. Congress needs a little more constitutional backbone. Another successful removal of appellate jurisdiction would supply a good stiff shot of calcium to Congress rather than gelatinous constitutional vertebrae.

UNFOUNDED FEARS

The prospect that an Article III exception might be made in federal court jurisdiction has aroused unfounded fears about its effect. Actually such an exception would be a simple statute. Because it is a statute, Congress has a unique ability to monitor its effect. If, in the opinion of Congress, the Supreme Court's jurisdiction over busing or abortion appeals should be restored at some future date, another simple statute will achieve that objective. Congress has the power to state what cases the Court hears on appeal from State courts.

Critics also fear that an exception would result in each state interpreting constitutional pronouncements uniquely, that fifty states could reach fifty different conclusions on the question of abortion or reapportionment. Frankly, this is precisely the result contemplated by the Constitution when it vested in Congress the exceptions power. The Framers of the Constitution trusted Congress to ensure that state and local consensus is respected.

The possibility of differing state interpretations of past Supreme Court rulings should not trouble us. In the words of Thomas Jefferson, "I consider the foundation of the Constitution to be laid on this ground—that all powers not delegated to the United States, by the Constitution, nor prohibited by it to the states, are reserved to the states or to the people. To take a single step beyond the boundaries thus specifically drawn . . . is to take possession of a boundless field of power, no longer susceptible of any definition."²⁷ Nowhere in the Constitution is education policy specifically delegated to the Federal Government. Nowhere in the Constitution is authority given to the Federal Government to dictate suffrage qualifications or to apportion representatives. These are matters left to the states by the Tenth Amendment to the Constitution. In other words, there cannot be fifty different interpretations of the Constitution on these questions, as some fear, because no constitutional issue is involved. The states and localities should be free to address those policy decisions left to them by the Constitution. Congress, by employing its exceptions power, could restore that balance to national policy. Congress could return to states that which is constitutionally theirs anyway. The Tenth Amendment to the Constitution, which reserves to the states and the people all matters not specifically delegated by the Constitution to the national government, would be restored to its proper role in the American constitutional framework.

IN CONCLUSION

THE FEDERAL JUDICIARY has been courting constitutional disaster by reading its own social predilections into the nation's founda-

tional document. The Supreme Court is the body charged with policing the confines drawn by the Constitution. When the policeman becomes a violating criminal, a higher authority must undertake enforcement. In this instance, the Constitution itself is the higher authority and has outlined the means to prevent the Supreme Court from revising the document. Jefferson provided the most graphic expression for this situation:

"It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. . . . In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."²⁸

The Framers of the Constitution forged a strong chain to bind the Supreme Court down to its circumscribed role in constitutional government. That chain, the power to make exceptions in and regulate federal court appellate jurisdiction, will only restrain, however, if laid on the Court's shoulders. Congress must execute its duty.

FOOTNOTES

¹ 304 U.S. 64 (1938).

² *Erie Railway Company v. Tompkins*, supra at 79.

³ *Brown et al. v. Board of Education of Topeka et al.*, 347 U.S. 483 (1954).

⁴ *United Steelworkers of America, AFL-CIO-CLC v. Weber et al.*, 443 U.S. 193 (1979).

⁵ *Baker et al. v. Carr et al.*, 369 U.S. 186 (1962).

⁶ *Roe et al. v. Wade, District Attorney of Dallas County*, 410 U.S. 113 (1973).

⁷ *McCulloch v. Maryland*, 17 U.S. (4 Wheat) 316 (1819) at 407.

⁸ Raoul Berger, *Government by Judiciary, The Transformation of the Fourteenth Amendment* (Cambridge, Mass., and London, England: Harvard University Press, 1977).

⁹ 35 G. Washington, *Writings* 228-229 (J. Fitzpatrick ed. 1940).

¹⁰ Alexander Hamilton, John Jay, James Madison, *The Federalist Papers* (The New American Library of World Literature, 1961), see number 81.

¹¹ *Wiscart v. D'Auchy*, 3 Dall. 321, 326.

¹² *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

¹³ *Durousseau v. U.S.*, 6 Cranch 307, 313.

¹⁴ *Carroll v. U.S.*, 354 U.S. 394, 399 (1957).

¹⁵ *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise of Dialectic*, 66 *Harvard Law Review* 1362, 1364 (1953).

¹⁶ *Ex Parte McCordle*, 7 Wall. 506, 514-515.

¹⁷ *U.S. v. Klein*, 13 Wall. 128.

¹⁸ *U.S. v. Klein*, supra at 142.

¹⁹ *Dred Scott v. Stanford*, 60 U.S. 393 (1857).

²⁰ *Korematsu v. U.S.* 323 U.S. 214 (1944).

²¹ Fifth United States Statutes at Large, p. 339.

²² Fourteenth United States Statutes at Large, p. 475.

²³ Title 23, United States Code, Section 107.

²⁴ Title 23, United States Code, Section 1341.

²⁵ Title 50, United States Code Appendix, Section 901.

²⁶ Title 43, United States Code, Section 1651.

²⁷ Thomas Jefferson, "Opinion on the Constitutionality of the Bank," [February 15, 1791]. *Documents of American History*, 8th ed., Henry Steele Commager (New York, 1968), pp. 159-160.

²⁸ Jonathan Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution* 543 (1836).

REMEMBERING THE HOLOCAUST

● Mr. KENNEDY. Mr. President, this past Tuesday I had the honor and privilege of attending the International Librarians Conference sponsored by the U.S. Holocaust Memorial Council. This conference, the first gathering ever of those

who were liberated with those who liberated them from the holocaust, was an important and extremely moving event.

In his eloquent welcoming address, Elie Wiesel, the chairman of the U.S. Holocaust Memorial Council, spoke of both the history of the holocaust and the importance of working today to guarantee that such horror and suffering will never occur again. As Mr. Wiesel stated:

It would have been so easy to allow ourselves to slide into melancholy resignation. We chose differently, we chose to become spokesmen for man's quest for generosity and his need and capacity to turn his—or her—suffering into something productive, something creative.

We had hoped then that out of so much torment and grief and mourning a new message would be handed down to future generations—a warning against the inherent perils of discrimination, fanaticism, poverty, deprivation, ignorance, oppression, humiliation and injustice, and war—the ultimate injustice, the ultimate humiliation.

Mr. President, there is no place in our country for words or deeds which breed hatred. Today, let us rededicate ourselves to building a world of true and lasting freedom. Let us also rededicate ourselves to the commitment of which Elie Wiesel spoke “to voice our concerns and our hopes, not for our own sake but for the sake of humankind. Its very survival may depend on its ability and willingness to listen.

“And to remember.”

Mr. President, I ask that Elie Wiesel's welcoming remarks at the International Liberators Conference be printed at this point in the RECORD.

The speech follows:

WELCOMING ADDRESS—“MEETING AGAIN”

(By the Honorable Elie Wiesel)

Monsieur le Ministre des Anciens Combattants, Excellences, Distinguished guests, delegates and friends:

As Chairman of the United States Holocaust Memorial Council, it is my privilege to welcome you and thank you for having accepted our invitation to join us as we undertake a unique pilgrimage into history and its darkest, convulsive nightmare.

Thirty-six-and-seven years ago, we experienced, together, a moment of destiny without parallel—never to be measured—never to be repeated; a moment that stood on the other side of time, on the other side of existence.

When we first met, at the threshold of a universe struck by malediction, we spoke different languages, we were strangers to one another, we might as well have descended from different planets. And yet—a link was created between us, a bond was established. We became not only comrades, not only brothers; we became each other's witnesses.

I remember—I shall always remember the day I was liberated; April 11, 1945. Buchenwald. The terrifying silence terminated by abrupt yelling. The first American soldiers. Their faces ashen. Their eyes—I shall never forget their eyes, your eyes. You looked and looked, you could not move your gaze away from us; it was as though you sought to alter reality with your eyes. They reflected astonishment, bewilderment, endless pain, and anger—yes, anger above all. Rarely have I seen such anger, such rage—contained, mute, yet ready to burst with frustration, humiliation and utter helplessness. Then you broke down. You wept. You wept and wept uncontrollably, unashamedly; you were our children then, for we, the 12-year-old, the 16-year-old boys in Buchenwald and

Theresienstadt and Mauthausen knew so much more than you about life and death. You wept; we could not. We had no more tears left; we had nothing left. In a way we were dead and we knew it. What did we feel? Only sadness.

And also: gratitude. And ultimately, it was gratitude that brought us back to normalcy and to society. Do you remember, friends? In Lublin and Dachau, Stuthoff and Nordhausen, Ravensbruck and Majdanek and Belsen and Auschwitz you were surrounded by sick and wounded and hungry wretches, barely alive, pathetic in their futile attempts to touch you, to smile at you, to reassure you, to console you and most of all to carry you in triumph on their frail shoulders; you were heroes, our idols: tell me, friends, have you ever felt such love, such admiration?

One thing we did not do: We did not try to explain; explanations were neither needed nor possible. Liberators and survivors looked at one another—and what each of us experienced then, we shall try to recapture together, now, at this reunion which to me represents a miracle in itself.

At this point, allow me to say a few words about the Council whose Chairman I am privileged to be.

Created by the President of the United States and enacted into law by the unanimous act of both the House of Representatives and the Senate of the United States, our Council is essentially non-political. It has not been used and shall not be used by any administration for any other purpose than to make our citizens—and people everywhere, aware of the unspeakable crimes perpetrated systematically, and officially, against the Jewish people and humanity.

Our activities are manifold in nature and in scope. The International Relations Committee, which coordinated this conference, is but one of the committees functioning within the Council.

Another committee is in charge of gathering pertinent archives; another is preparing educational programs for elementary and secondary schools and universities. There is a Committee to prepare the annual Remembrance Day ceremonies, another to plan the Museum, and yet another is engaged in raising funds to finance all these activities. What we all have in common is an obsession; not to betray the dead we left behind or who left us behind. They were killed once; they must not be killed again through forgetfulness.

This conference has its own history. Moscow, 1979. Members of a Presidential delegation met with certain high-ranking Red Army officers. One of them in particular meant much to us: General Petrenko had liberated Auschwitz. It was an extraordinary encounter. We exchanged stories. He told us of the preparations to break through the German lines and I told him of the last day in camp, the last roll call, the last night, the last consultations among inmates, friends, fathers and sons; what should one do? Hide? Where? The Red Army was so near, so near. We prayed, I told General Petrenko. We prayed for you and your men and no believer ever prayed to his or her God with more fervor.

And so—while General Petrenko and I were telling each other tales of courage and despair, I suddenly had the idea of bringing together liberators from all the allied forces. To listen to you and to thank you. And—why not admit it?—to solicit your help. Our testimony is being disputed by morally deranged Nazis and Nazi-lovers; your voices may silence them. You were the first men to discover the abyss, just as we were its last inhabitants. What we symbolized to one another then was so special that it remained part of our very being.

Well—here you are, friends from so many nations, reunited with those who owe you their lives, just as you owe them the flame that scorched your memories.

On that most memorable day, the day of our liberation—whether it took place in 1944 or in 1945, in Poland or in Germany—you incarnated for us humanities noblest yearning to be free, and even more; to bring freedom to those who are not.

For us, you represented hope. True, six million Jews have been annihilated, millions of brave men and women massacred by the Nazis and their collaborators, but we are duty-bound to remember always that to confront the Fascist criminal conquests, a unique alliance of nations, gigantic armies, transcending geo-political and ideological borders, were raised on five continents, and they went to war on behalf of Humankind.

The fact that millions of soldiers wearing different uniforms united to fight together, be victorious together and, alas, sometimes die together, seemed to justify man's faith in his own humanity—in spite of the enemy. We thought of the killers and we were ready to give up on man; but then we remembered those who resisted them—on open battlefields as well as in the underground movements in France, Norway, Holland, Denmark and the U.S.S.R.—and we reconciled ourselves with the human condition. We were—can you believe it?—naïve enough to think that we who had witnessed, for a while, the domination of evil would prevent it from surfacing again. On the very ruins of civilization, we aspired to erect new sanctuaries for our children where life would be sanctified and not denigrated, compassion practiced, not ridiculed.

It would have been so easy to allow ourselves to slide into melancholy resignation. We chose differently, we chose to become spokesmen for man's quest for generosity and his need and capacity to turn his—or her—suffering into something productive, something creative.

We had hoped then that out of so much torment and grief and mourning a new message would be handed down to future generations—a warning against the inherent perils of discrimination, fanaticism, poverty, deprivation, ignorance, oppression, humiliation and injustice, and war—the ultimate injustice, the ultimate humiliation.

Yes, friend; we were naïve.

And perhaps we still are.

Oui, nous sommes naïfs. Ensemble, nous exprimons une souffrance humaine étouffée qui n'a de nom ni de fond; invoquons-la pour écarter d'autres souffrances. Ensemble nous avons le droit et le devoir de lancer un appel auquel nul ne pourra demeurer sourd: un appel contre la haine, contre la dégradation de l'homme, contre la violence et contre l'oubli.

Nous avons vu ce que nul ne verra; la condition humaine bafouée, diminuée; nous avons vu a quoi le fanatisme peut aboutir; à la cruauté, à l'emprisonnement, à la tuerie à l'échelle de l'Etat—et de la planète.

Nous avons vu la métamorphose de l'histoire, et il nous incombe d'en témoigner; quand on voue un peuple à la mort, tous les autres sont visés; quand on jette l'opprobre sur un groupe humain, c'est l'humanité tout entière qui est menacée. Les plans hitleriens pour anéantir le peuple juif, puis pour décimer les peuples slaves, portaient en eux le germe d'une fin totale; on tuait les Juifs et c'est l'humanité qu'on assassinait.

Vous, amis libérateurs, avez arrêté ce processus; soyez-en fiers, soyez-en remerciés.

Si nous unissons nous souvenirs et nos volontés, comme nous l'avons fait jadis, tout demeure possible. L'oubli mène à l'indifférence et l'indifférence à la complicité, donc au déshonneur.

Amis, je m'adresse à vous comme à des frères; les liens qui nous unissent sont puissants et durables; nous formons une communauté à nulle autre pareille. Elle diminue de jour en jour. Qui de nous sera le dernier messager? Le jugement que nous portons sur les événements passés et présents, nous ne

pouvons pas ne pas le formuler; notre dignité en dépend. Eh oui, nous sommes contre les prisons, contre la dictature, contre la peur, contre l'affrontement nucléaire ou autre; nous incarnons une preuve vivante, vibrante, qu'il est possible à des hommes de s'unir pour affirmer le droit à vivre et à rêver en paix.

Je suis naïf peut-être, mais je crois de tout mon cœur que si nous parlons assez fort, la Mort reculera.

To paraphrase Nietzsche, we looked deep into the abyss—and the abyss looked back at us. No one comes close to the kingdom of night and goes away unconcerned. We told the tale—or, at least, we tried. We resisted all temptations to isolate ourselves and be silent. Instead we chose to affirm our desperate faith in testimony. We forced ourselves to speak—however inadequately, however poorly. We may have used the wrong words—but then there are no words to describe the ineffable. We spoke in spite of language, in spite of the limits that exist between what we say and outsiders hear. We spoke and . . . explosions in Paris, bombs in Antwerp, murderous attacks in Vienna. Is it conceivable that Nazism could dare come back into the open so soon—while we are still alive, while we are still here to denounce its poisonous nature as illustrated in Treblinka?

Again we must admit our naivete. We thought we had vanquished what Brecht called the beast, but no: it is still showing its claws. At best, what a gathering such as this could do is to shame the beast into hiding.

If we here succeed—and I hope and pray that we shall—in rising above politics, above the usual recriminations between East and West, above simplistic propaganda, and simply tell the world what both liberators and liberated have seen, then something may happen; the world may choose to pay more attention to what hangs as threat to its very future.

If we succeed—and I hope and pray that we shall—in putting aside what divides us—and what divides us is superficial—if we dedicate ourselves not only to the memory of those who have suffered but to the future of those who are suffering today, we shall be serving notice on mankind that we shall never allow this earth to be made into a prison again, that we shall never allow war to be considered as a solution to any problem—for war is the problem. If we succeed, then our encounter will be recorded as yet another of our common victories.

If we do not raise our voice against war—who will? We speak with the authority of men and women who have seen war; we know what it is. We have seen the burnt villages, the devastated cities, the deserted homes, we still see the demented mothers whose children are being massacred before their eyes, we still follow the endless nocturnal processions to the flames rising up to the seventh heaven—if not higher . . .

We are gathered here to testify—together. Our tale is a tale of solitude and fear and anonymous death—but also of compassion, generosity, bravery and solidarity. Together, you the liberators and we the survivors represent a commitment to memory whose intensity will remain. In its name we shall continue to voice our concerns and our hopes not for our own sake, but for the sake of humankind and its very survival may depend on its ability and willingness to listen.

And to remember. ●

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

● Mr. STAFFORD. Mr. President, I wish to place two items in the RECORD relating to deliberations now occurring

at the Architectural and Transportation Barriers Compliance Board.

The first item is a letter to the chairman of the Barriers Board from eight Senators, including myself, and dated September 18, 1981.

The second item is a letter addressed 2 days earlier to the board from the American National Standards Institute containing its comments in response to the board's proposed rulemaking, which were published in the Federal Register August 4, 1981 (46 FR 39764).

The ANSI comments urge the board to withdraw the minimum guidelines completely in favor of its own guidelines. This Senator, along with the others who signed our September 18 letter to the board, do not endorse this position. The ANSI guidelines and comments, however, are the product of much consideration and experience and deserve respectful attention and the body of the ANSI letter reflects this Senator's view about the relationship of the ANSI standards, to the guidelines required by Congress.

My purpose is to give these materials exposure in the RECORD for the benefit of the Senate and other interested parties who are closely following the actions of the board.

The letters follow:

U.S. SENATE,
Washington, D.C., September 18, 1981.
Mr. MASON ROSE,
Chairman, Architectural and Transportation Barriers Compliance Board, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to provide you with comments on the Architectural and Transportation Barriers Compliance Board's (A&TBCB's) July 10, 1981, Notice of Proposed Rulemaking (Federal Register, August 4, 1981, p. 39764) on Minimum Guidelines and Requirements for Accessible Design.

Section 502(b)(7) of the Rehabilitation Act of 1973, as amended, requires the A&TBCB to issue minimum guideline and requirements for accessibility and usability by physically disabled persons of federal and federally funded buildings and facilities. This requirement was enacted to provide an impetus toward and more uniform measurement of compliance with the Architectural Barriers Act of 1968, as amended. The persistent failure of federal departments and agencies to achieve the level of accessibility required in the Architectural Barriers Act has twice recently been pointed out by the Senate Environment and Public Works Committee—in the committee report on S. 2080 last Congress (May 15, 1980), Senate Report No. 96-771, pages 33-39, and more recently in its report, Senate Report No. 97-48, pages 32-36, on S. 533, as passed by the Senate on May 6, 1981.

In our judgment, the rescinding of the A&TBCB's minimum guidelines would leave the mandate of section 502(b)(7) of the Rehabilitation Act entirely unfulfilled and would represent a most regrettable erosion of the federal commitment to help disabled citizens overcome their handicaps and, to the maximum extent possible, lead productive, independent lives in their communities.

We are aware that significant concerns have been expressed that parts of the guidelines issued by the Board on January 6, 1981, are unduly demanding. Many of these concerns appear legitimate in light of the intended scope of section 507(b)(7) about which some of us wrote you on November 20, 1980, and efforts should be undertaken by the Board to modify the particular provi-

sions involved. But these concerns provide no justification for abandonment, through complete rescission of the guidelines, of the Board's mandated responsibilities.

Moreover, it is our understanding that no effort has been made by any of the current federal members on the Board to achieve modifications of the guidelines even after repeated attempts on the part of several other Board members to achieve a revised approach. We find such a refusal to enter into discussions in order to reach mutually agreeable modifications of the January guidelines to be most unacceptable in view of the Board's statutory mandate.

To remedy this situation in an appropriate manner, we urge that the Board immediately extend the comment period on the rulemaking process with the objective of providing sufficient time for members of the general public to express substantive comments on specific modifications of the January guidelines. The focus should be on the elimination or modification of particular, unduly burdensome provisions and not on the issue of whether the Board should issue guidelines at all.

In addition, we urge the Board to identify in the notice of such extension those aspects of the requirements that are perceived of as troublesome and to propose revisions in those specific aspects of the guidelines for purposes of generating public comment during the extended period.

We thank you for your attention to our views.

Sincerely,

ALAN CRANSTON.
DONALD W. RIEGLE, JR.
EDWARD M. KENNEDY.
ROBERT T. STAFFORD.
LOWELL P. WEICKER, JR.
HARRISON A. WILLIAMS, JR.
DAVID PRYOR.
JENNINGS RANDOLPH.

AMERICAN NATIONAL STANDARDS INSTITUTE, INC.,
Washington, D.C., September 16, 1981.

(Comments of the American National Standards Institute concerning Minimum Guidelines and Requirements for Accessible Design.)

Mr. CHARLES GOLDMAN,
General Counsel Rulemaking Docket 81-G-1,
Washington, D.C.

DEAR MR. GOLDMAN: These comments are submitted as requested in the Federal Register of August 4, 1981 (46 FR 39764).

The American National Standards Institute serves as coordinator for the U.S. voluntary standards system and provides procedures for development of national consensus standards. One of the finest committees operating under these procedures is American National Standards Committee A117, which has worked for many years on development of a practical and feasible standard for making buildings accessible to the handicapped. The standard which they prepared, ANSI A117.1, was originally issued in 1961 and was reaffirmed in 1971. A revised version, based on two years' research sponsored by the U.S. Department of Housing and Urban Development, appeared in 1980.

ANSI urges the A&TBCB to withdraw the minimum guidelines for building accessibility which were adopted on January 6, 1981. As we stated in testimony to the House Subcommittee on Public Buildings and Grounds and in our memorandum to the A&TBCB of May 23, 1981, issuance of the guidelines actually represented a disservice to the very people it was intended to assist. This is because there exists our already widely-accepted voluntary consensus standard, ANSI A117.1-1980. By promulgating rules which differ from ANSI A117.1, the A&TBCB has generated considerable confusion among de-

signers, architects, public planners and others concerned with implementing accessibility regulations. Designers familiar with ANSI A117.1 due to its widespread adoption by states, local authorities and building code groups are now faced with a conflicting set of federal regulations, a situation which can only harm the cause of increased accessibility. Although the A&TBCB guidelines are in certain respects compatible with ANSI A117.1, there is no denying that the extent of their differences is confusing and unwarranted.

ANSI A117.1 was prepared in accordance with due process requirements by the balanced A117 committee on which all concerned national interests, including government agencies, were represented. HUD, the National Easter Seal Society and the President's Committee on Employment of the Handicapped serve as secretariats of the committee. Unlike the A&TBCB guidelines, the ANSI standard was developed on the basis of data acquired through extensive research. It was supported by a consensus of the committee, and was submitted to public review. All comments from both committee members and the public were considered, and all objections answered. The result is a true national consensus standard.

ANSI A117.1 is a general guideline document. It was purposely written in guideline form to allow federal, state and local bodies to add their own specific requirements as they saw fit. It is generally conceded that the work product of the A117 Committee is the best that can be accomplished with existing technology and experience. As noted above, the standard was developed through open, consensus procedures. Over the years it has been adopted by numerous governmental bodies and recognized by the major building code groups. It would therefore seem logical that this guideline standard should be adopted by federal agencies—especially since the concerned agencies participated in the recent revision.

The A&TBCB standard was published on 6 January 1981 to be effective immediately. Representatives of the A&TBCB did participate in the A117 meetings. In the meantime, they were apparently preparing their own standard. The proposed draft was published in the 18 August 1980 Federal Register and a total of between 300 and 400 comments were received. Most of these comments were negative. The Board never answered any of the negative comments. Included in these comments was a letter from the four members of the Senate Subcommittee on the Handicapped dated 20 November 1980 which expressed considerable concern about the Board's action.

Serious questions have arisen concerning the legality of the original Board action in this matter and we enclose a memorandum on this subject.

As stated in the Federal Register the A&TBCB standard was never subject to cost benefit review by the Board under Executive Order 12044 or Executive Order 12291, and we understand that the Board has made no attempt to ascertain costs. This aspect should be carefully studied before reissuing a rule.

As you know a special Interagency Task Force including the four standards setting agencies—GSA, HUD, DOD and the Postal Service—has been working to prepare a uniform federal standard. When we met with them on 20 August, they informed us that the standard they were preparing would be based on ANSI A117.1-1980. This is all the more reason that the A&TBCB standard should be rescinded and the ANSI A117.1 standard used.

In conclusion ANSI strongly recommends that the A&TBCB standard be rescinded. Until there is one uniform national standard, the cause of accessibility will suffer. ANSI

and the A117 committee will welcome the opportunity to work with the concerned agencies to achieve uniformity.

Sincerely,

ELIZABETH A. BRIDGMAN,
Director, Technical Affairs. ●

A TRIBUTE TO WILLIAM O. WALKER

● Mr. GLENN. Mr. President, it is with great sadness that I join my fellow Ohioans in mourning the death of William Otis Walker. "W.O." Walker was a friend for whom I had tremendous respect and admiration.

W. O. Walker took over the Cleveland Call & Post in 1932 and built it into a black weekly newspaper with statewide circulation and national renown. During his tenure, the paper has been a strong and respectable black voice in this country.

W. O. Walker's contributions spanned nearly five decades and transcended the field of publishing and journalism. He was a leading black spokesman who was active in Cleveland's business, civic, and community affairs. He was also a strong supporter of minority business enterprise—the Call & Post itself serving as an example of the success of many such enterprises.

W. O. Walker was also active in political affairs. He served as a Cleveland city councilman for 5 years. In 1963, he became the first black to serve on the cabinet of an Ohio Governor, when Governor James A. Rhodes appointed him as director of industrial relations.

We all will deeply feel the loss of this outstanding American.

Mr. President, I ask that a copy of the article appearing in today's New York Times concerning the death of W. O. Walker be placed in the RECORD at the conclusion of my remarks.

The article follows:

WILLIAM O. WALKER, PUBLISHER OF BLACK WEEKLY

(By Josh Barbanel)

William Otis Walker, publisher for nearly 50 years of The Cleveland Call and Post, a black weekly newspaper, and an influential figure in Ohio politics, died yesterday after suffering a heart attack outside his office in Cleveland. He was 35 years old.

Mr. Walker, known as "W. O." to his friends and employees, took over the faltering Call and Post in 1932 at the invitation of local businessmen when its circulation had dropped to about 1,000.

In the next five decades he turned it into a prosperous and influential publication, with three editions and a circulation of 40,000. The company also prints 17 foreign-language newspapers, a large-circulation shopper in Cleveland and several specialized journals.

Mr. Walker also became an influential adviser to state and local political leaders, and was a major black figure in national Republican politics.

He served five years on the Cleveland City Council and eight years as the state industrial relations director, and was a member of numerous Federal advisory bodies. He also served as national chairman of Black Republicans for Reagan and Bush in last year's Presidential election.

William Otis Walker was born Sept. 19, 1896, in Selma, Ala., where his parents owned a grocery store, and attended public schools in Selma.

He was graduated from Wilburforce Uni-

versity in Ohio in 1916, and two years later was graduated from the Oberland Business College.

After working as secretary to the director of the Pittsburg Urban League, he joined the reporting staff of The Pittsburgh Courier in 1919, then a national black weekly newspaper, and was soon appointed as city editor.

In 1920 he moved on to The Norfolk (Va.) Journal and Guide as city editor, and the following year became managing editor of the newly founded Washington Tribune, which quickly became the dominant paper in the area.

In 1923, after a falling out with the owners, he became advertising manager for the Fair Department Store in Washington, and was promoted to assistant manager after a few months. According to his associates, it was Washington's first department store with an integrated staff.

In 1932 he was manager of a store in Baltimore when he was invited to take over The Call and Post.

Mr. Walker served as a Republican member of the Cleveland City Council from 1939 to 1946, and was a ward leader and member of local Republican groups for many years.

He became the first black to serve on the cabinet of an Ohio Governor in 1963, when Gov. James A. Rhodes appointed him to the industrial relations post. ●

SUGAR PROVISION OF THE FARM BILL

Mr. INOUE. Mr. President, recently the House of Representatives deleted the sugar provision from the farm bill by the relatively narrow margin of 213 to 190 votes. This is a setback for those of us who have struggled to preserve our domestic sugar industry against subsidized foreign dumping and who have sought stability for the consumer in our domestic sugar market. The Senate-passed version of the Agriculture and Food Act of 1981 contains an adequate and sensible sugar provision endorsed by the Senate overwhelmingly on two occasions. It is my hope that the Senate provision will be retained intact in conference.

Mr. President, I wish to share with my colleagues an editorial published by the Honolulu Star-Bulletin on October 17 regarding the proposed sugar legislation. I ask that this editorial be printed in the RECORD.

The editorial follows:

SUGAR: DOWN BUT NOT OUT

The House of Representatives' vote deleting sugar price supports from the farm bill was obviously a blow to Hawaii's sugar industry, but not necessarily a fatal one.

Robert Hughes, president of the Hawaiian Sugar Planters Association, told us from Washington that he is reasonably hopeful that the sugar provisions will be restored to the bill in the Senate-House conference committee. The Senate version of the measure includes sugar supports.

Hughes pointed out that the two votes taken in the Senate on the sugar provisions were favorable to sugar by wide margins—61-33 and 64-30. By contrast, the vote against sugar in the House was a relatively close 213-190. So he thinks there is a good chance that the final version of the legislation will contain sugar supports.

Far from being the boondoggle painted by its critics, supports for domestic sugar merely provide a shield against the dumping of subsidized foreign sugar. Until international efforts to stabilize the highly volatile world sugar prices take hold, our island industry sorely needs domestic legislative

support to ensure its survival. The price of sugar is currently one-third below cost.

For the moment, the legislative problem comes down to the bargaining that will ensue when the conference committee on the farm bill convenes.

PROTECTING THE NUTRITIONAL QUALITY OF THE SCHOOL LUNCH PROGRAM

● Mr. MELCHER. Mr. President, I urge the Senate to adopt unanimously Senate Resolution 218.

This resolution was unanimously reported from the Committee on Agriculture, Nutrition, and Forestry. It is straightforward. It says that despite the budget cuts made this year—despite the belt-tightening that is going on in Washington and at the local level—the Senate of the United States believes it is essential to retain the goal that each school lunch provide children with one-third of the recommended dietary allowances of nutrients for children, as established by the National Academy of Sciences.

The maintenance of the goal does not affect Federal funding. There are many types of nutritious foods to meet the goal.

Since 1946, the National School Lunch Act has required that lunches offered by schools participating in the national school lunch program meet minimum nutritional standards prescribed by the Secretary of Agriculture. In World War II so many young men were rejected for military service that the Nation responded with a need for a child nutrition conscience. Part of that conscience consensus was the enactment of the school lunch program.

Since the inception of the program, the Secretary has applied the theory that the lunches should aim to provide, over a period of time, approximately one-third of the recommended dietary allowances (RDA) for children as specified by the National Academy of Sciences. The determination of the goal of one-third RDA was simply derived from the assumption that lunch, as one of the three daily meals, should contribute approximately one-third of the daily food intake requirements. That goal was and is valid. It is not just a dream, it is attainable and we must not abandon it. We have achieved much—the Field Foundation study found that malnutrition has been largely eradicated. The child nutrition programs—principally the school lunch program—brought this into reality. Let us not abandon this success for coming generations of children.

To assist school personnel in planning menus that meet the program's nutritional goal, the Department of Agriculture established by regulation Federal patterns that specified minimum quantity requirements for the five basic food components of a meal—meat and meat alternates, vegetables, fruit, bread and bread alternates, and milk. The patterns have, over the years, been revised to reflect new nutritional knowledge.

The Department has, in reviewing the revising regulations in the past, expressly recognized that nutritional needs of children vary, and accordingly, that the

minimum requirements must provide flexibility to school personnel providing meals under the lunch program. Most recently the Department revised meal pattern requirements in 1980 to bring them in line with revisions in the RDA. But to lower the goal now in basic nutrition language is just "pap." There is an abundance of food—indeed a variety of foods available at low cost to schools to meet the needs and continue the goal.

Since 1946, the Congress has felt it was important that America's school-children receive the nutrition they need in their school lunches, in order to promote educational achievement. The two have always gone together. A hungry child without adequate nutrition will not learn up to his or her capacity.

Earlier this year, President Reagan proposed \$1.9 billion in child nutrition budget cuts. Congress enacted \$1.5 billion in reductions, which is a 35-percent cut in Federal contributions.

Even as modified from the President's proposals, the child nutrition cuts enacted by Congress were too deep. They have resulted in parents and children across the Nation paying significantly higher prices for less food.

USDA's proposed regulations of September 4 were an attempt to lower the costs of producing a school lunch. Many school lunch administrators fear that the cost of lunches will be so high that there will be a wholesale drop-out from the program by middle-income children.

While some parts of these regulations were helpful, they went much too far:

The regulations had no nutritional basis. They were proposed only to cut costs. They were inconsistent with section 818 of the Omnibus Budget Reconciliation Act of 1981, which requires that cost savings be achieved "without impairing the nutritional value of such meals."

The regulations undermined public confidence in the nutritional value of the school lunch program. USDA admits in its regulations that the changes in crediting guidelines—such as counting ketchup and relish as vegetables—will not achieve significant savings. If this is the case, why undermine public credibility in the program? And, one of the basic missions of the program—nutrition education—will be undermined.

The regulations cut milk portions standards so that growing children would only get three-fourths of a glass of milk. Particularly with the elimination of the special milk program this year, many children may get only 4 to 6 ounces of milk in an entire school day.

The regulations had a particularly harsh effect on poor children. Studies show that poor children receive one-third to one-half of their daily nutrients from the school lunch. If portions are cut as proposed, these children will not be able to make up for the loss—especially given the deep cuts in food stamps and AFDC which have been enacted.

The regulations would have made future cuts in the school lunch programs easier to justify because the nutritional foundation of the program would have been shaken.

OMB Director David Stockman did us a favor by taking the regulations to

the public press and scandalizing them. He effectively killed them.

But I do not think for a minute that Mr. Stockman has suddenly become a friend of the program. To the contrary, he has said on more than one occasion that he has plans for more cuts in the program. I think we have already cut too much.

I have done a survey of the effects on the school lunch program in Montana as a result of the cuts we have made in the program this year. That survey shows 15- to 25-percent decrease in student participation, and one school district has had a 40-percent drop.

The reduction in participation in my State is attributed directly to the reduction in Federal support and the resulting increases in the prices of meals.

The Federal Government has reimbursed the school districts for all lunches served and the reimbursement has been more for the free and reduced lunches for poor children, but the successful financing of the school lunch program in Montana has depended on the paying child.

Meals served to these children were reimbursed during the 1980-81 school year at the rate of 18.5 cents per lunch in cash and 16 cents in commodities. This school year, lunches for the non-needy are being reimbursed at the rate of 10.5 cents in cash and 11 cents in commodities. That is a 13-cent drop in reimbursement from 34.5 cents to 21.5 cents.

The schools not only had to come up with funds to make up for the loss of the 13 cents, but they also had to make up for increased costs because of inflation. Schools in the past have provided assistance from general fund budgets but more and more school districts are finding it difficult to provide supplementary funds for the lunch program because of demands on the general fund budget from other areas.

Consequently, the paying family has had to pick up the increased costs. Increases in meal costs for this school year have ranged mainly 15 to 20 cents a meal. But Missoula Elementary reported only a 10-cent increase, apparently counting on a district subsidy of \$140,000 from a mill levy and the addition of another school district which lowered fixed costs. Great Falls Elementary and High School costs to paying children increased 30 cents per meal and Ronan-Pablo 25 cents.

Another influence on the participation has been the more restrictive formula used for determining if children qualify for free or reduced-priced meals.

Traditionally, the major participants in the school lunch have been children from middle-income families. These families are finding it more and more difficult to come up with the additional 15 to 20 cents a lunch ticket.

Parents with children in the rural Ronan Pablo schools have been informed by school officials that more students must take part in the school lunch program or they will lose it.

In a memo to parents, Superintendent of Schools, K. William Henry, said the program ended the 1980-81 school year

with a \$7,500 deficit. The board of trustees placed \$13,612 in general fund tax moneys into the program to cover the deficit and to help with this year's program but the program is still not solvent. At an October 8 board meeting the trustees decided to pay another \$20,356 in general funds into the program.

Federal reimbursement and commodity shipments have been reduced and student participation has fallen by 25 percent.

Henry wrote:

The story is simply that this cannot go on. The payments are endangering the General Fund Account. . . . School lunch is not a principal function of a school, but rather an auxiliary service. As an auxiliary service it must not be allowed to endanger the school's principal function.

The cost to the child of the reduced price meals was raised by Congress from 20 cents for the last school year to 40 cents for this year.

In the State's largest city, Billings, prices to children for meals increased by 20 cents and the average meals served per day has decreased from 10,000 last year to 7,000 this year. A school official told us that another significant price rise will put their program out of business.

In Great Falls, 60,000 population, where Anaconda closed its copper refinery operation a year ago and threw 500 out of work, meal prices went up 30 cents. Participation is down from 8,300 last year to 6,700 this year.

In Butte, where the Anaconda Co. is the largest employer and is suffering from lower copper prices, meal prices increased 20 cents this year over last. School officials called the situation touch and go, explaining that the program will have to be closed down if it does not pay its own way. They said efficiency can only accomplish so much and there is a point beyond which nothing more can be achieved.

Bozeman, home of Montana State University, increased its prices this year by 15 cents a meal. School authorities said they will need more commodities to keep costs down. They said parents grumbled at the increase, but there has been no loss of participation.

Wolf Point on the Fort Peck Indian Reservation, by a split vote of its trustees, kept its paying meal prices the same and also its reduced price meals. It subsidizes its program from other funds and says it will need continued Federal support.

In nearby Anaconda, which lost 1,200 jobs last year due to the Anaconda smelter closure, elementary and high school students pay the same meal costs as last year, 60 cents and \$1 respectively. District officials said they will try to continue the high school program through this school year although participation is down by 40 percent.

The idea of substituting ketchup and relish for vegetables, cutting down on milk portions and one piece of bread without butter or margarine does not make any sense. It assures that the nutritional value of the lunches will be nowhere near 30 percent of recommended daily allowances, and it means

that the quality of the lunches will be so poor—so tasteless, that more and more paying students will be driven from the program.

The American School Food Service Association, an organization of school lunch directors and child nutritionists, has found in a survey of its members that 400 schools have pulled out of the program because of Federal cutbacks.

I think it is time that we say through this resolution that in the area of child nutrition we have cut back as far as we are going to go. There is no justification to further deteriorate the Federal school lunch program by lowering our National Government's commitment to the school lunch program. There is, I repeat, an abundance of food with nutritional values that meet nutritional requirements of our Nation's school children.

I think we need to send Mr. Stockman the message that the Senate is not going to seek economic recovery at the expense of healthy school children.

Mr. President, I urge the adoption of the resolution.●

AMNESTY/LEGALIZATION

● Mr. EAST. Mr. President, at a time of distressingly high unemployment, proposals to "legalize" the status of millions of illegal aliens working in the United States must be carefully scrutinized. Yesterday a spokesman for the American Legion presented to the Subcommittee on Immigration and Refugee Policy of the Judiciary Committee a strong argument against amnesty. In order to share the American Legion's thoughtful position with my colleagues, I ask that the statement be printed in the RECORD.

The statement follows:

STATEMENT OF THE AMERICAN LEGION
(By Paul S. Egan, Assistant Director, National Legislative Commission)

Mr. Chairman and Members of the Subcommittee:

The American Legion appreciates this opportunity to present its views on the desirability of amnestying or legalizing the status of undocumented aliens residing in the United States. It is our opinion that amnesty or legalization is undesirable and we strongly oppose the idea as unworkable, impractical, and unjustifiable for a variety of reasons.

As a veterans service organization dedicated to the well-being of those having defended the nation, the American Legion is particularly concerned about the impact of both legal and illegal immigration on the nation's veterans. In that regard we are alarmed about the employment prospects of unemployed veterans, especially younger and minority veterans with unemployment rates in excess of national averages. This organization has reason to believe that very large percentages of illegals in some regions of the nation are currently displacing not only veterans but able and willing unemployed Americans generally. The American Legion regards the supplanting of veterans and other Americans with illegals as unconscionable.

In the years 1978 and 1979 the Immigration and Naturalization Service (INS) reported that of all illegals arrested, more than half were employed outside the agricultural sector and three out of five earned more than minimum wages. In late 1979 several aliens arrested in Chicago were found to be making over \$9,000.00 per year in heavy industries. Also in late 1979, an INS survey indicated that aliens arrested in Los Angeles averaged

2.4 years on the job with earnings averaging \$5.25 per hour. In mid summer of 1979, a foundry in Elgin, Illinois, was raided netting 69 illegals earning between \$4.50 and \$13.00 per hour. According to one report, it was found that illegals employed at a construction site in Virginia were making \$16,000.00 per year with a foreman making even more.

These instances are startling. They are startling not only because they dispute commonly held beliefs that illegals are exploited in low paying jobs, but also because they debunk the notion that illegals are not employed in economic sectors other than exclusively agricultural sectors. Moreover, these reports still fail to adequately address the important question of how many illegals actually supplant Americans in the job market. The answer to that question is elusive in the absence of accurate figures on the number of illegals in the United States or in the absence of broad regional samples of the total economy.

However, in a recently concluded study that this organization discovered, it was found in the Houston metropolitan area that fully one third of all employees at work on construction sites are illegals. What is even more alarming, much of that construction is contracted out by the federal government. The implications of this study by Rice University Economics Professor Donald C. Huddle are remarkable if one first considers that the U.S. government is inadvertently subsidizing illegal alien employment and second that government construction sites must provide wages in accordance with the Davis-Bacon Act. Indeed, Huddle found illegals working for between \$4.00 and \$9.50 per hour in a city with minority and youth unemployment ranging around 20 percent.

We have not reviewed the merits of Professor Huddle's research design, but we understand that his sampling of construction sites was random, including nearly 2,000 of the estimated 150,000 construction workers in that area. The consistency of Huddle's findings with other reports from around the country suggests to us that it is credible at the very least.

In the face of all of this evidence taken together, it is clear to this organization that illegals have a profound impact on the job market in all sectors of the economy. It is also clear that very large numbers of illegals are employed in jobs making far more than minimum wages. We believe, in most of these instances that many Americans would gladly stand in line to apply for these jobs. Moreover, the argument that illegals are only occupied in jobs deemed undesirable by Americans does not appear to stand up.

We raise these points because they constitute perhaps the most salient reason for opposing amnesty. Jobs held by illegals should and could be held by Americans.

At a time in our history when the entire nation is experiencing strains associated with slow economic growth and attendant high unemployment rates, it is in the U.S. national interest to take whatever steps necessary to assure Americans the best possible economic relief. To say to Americans, instead, that those illegally in the country and holding jobs desired by Americans will be allowed to retain them while American workers must fend for themselves is patently unfair.

It occurs to the American Legion that with the recent passage of tax and spending cut legislation to spur the rebuilding of the American economy, consistency of policy requires every effort to address American unemployment problems as the President's program for economic recovery is given an opportunity to work. Importantly, consistency of policy in this regard is appropriate whether or not the Administration's program works and whether or not we agree with its premises.

A second reason that we oppose amnesty

or legalization is that it creates an injustice for those wishing to emigrate legally. For those having waited long periods of time as a consequence of pursuing proper channels in efforts to immigrate legally, amnesty can only be seen as a signal that the U.S., electing to repudiate its own laws, is willing to reward the undocumented at the expense of the law abiding. Our estimation, in this event, is that further waves of illegal immigration subsequent to an amnesty would be encouraged. The sense of betrayal by those legal having waited patiently as illegals have reaped the economic rewards of U.S. residency will undoubtedly resemble that of many Americans having been drafted into the military during the Vietnam war. The sense of betrayal by Vietnam veterans having served their obligation in the face of amnesty for those who refused is undeniable and may yet cause serious problems in the event of another national emergency requiring mobilization.

In that regard we hear on occasion the question of whether the amnesty for draft evaders of the Vietnam War worked. If the answer is yes then it is assumed that amnesty for illegals is justifiable. We submit that this type of rationale confuses prospective policy success with appropriate policy wisdom. The question properly asked is whether or not in the face of potential future mobilization problems resulting from the Vietnam amnesty experience, it is advisable to create the same incentive for would-be illegals to violate our immigration laws in a post amnesty period.

While it is impossible to predict what if any problem would arise in the event of a mobilization in the future, it should be kept in mind that the post World War II baby boom became the Vietnam generation and are the parents of tomorrow. If mobilization becomes necessary or if the nation returns to conscription, what will the children of this generation be advised? The correlatives of this question are what will would-be legal immigrants advise their children and what will legalized undocumented advise their relatives and friends outside of the U.S.

Yet another reason The American Legion opposes amnesty or legalization is that it would naively legitimize transgressions of U.S. law. In our view the merits of amnesty proposals beg the question of long range solutions to the problem of illegal immigration. Amnesty for illegals makes no more sense to us than solving problems of prison overcrowding by releasing all prisoners with a view toward starting with a clean slate. Illegals will continue to enter the country as long as potent economic incentives exist and for as long as they are permitted to get away with it just as the criminally disposed will continue to prey on society for as long as they are free to do so with impunity.

Importantly, we employ this analogy not for the purpose of comparing the seriousness of one transgression with another. The force of our analogy rests instead with what we regard as axiomatic of civilized democratic societies. As citizens under laws promulgated by legitimate representative government, we voluntarily bend de jure compliance. Necessarily as citizens we have a right to expect reciprocal de facto enforcement. Anything less in our view is a dangerous breach of faith in fundamental relationships of citizen to state and state to citizen. We are well advised to impart the seriousness with which we as a nation regard these relationships to would-be immigrants.

In a more practical sense, we believe the INS to be incapable at present to handle the administration of an amnesty. Even if amnesty were a good idea, the record keeping and management of such a program would create nearly impossible problems for INS—already hard pressed to adequately handle current responsibilities.

In summary, The American Legion opposes amnesty because jobs held by illegals should be made available to Americans, because new waves of illegals will be encouraged, because amnesty is unfair to those would-be immigrants having abided the law and waited their turn, because it is bad public policy to repudiate U.S. law by legitimizing the transgressions of those having violated U.S. law and because the administrative burden on INS would be too great even if amnesty were a good idea. For the above reasons, The American Legion opposes amnesty in all forms however truncated.

Thus far we have outlined our objections to amnesty. These objections are based in both principle and what we regard as sound public policy. It is our belief that immigration policies regarding the legal or illegals should stem from a sound assessment of U.S. national interests. Many of the arguments employed to justify amnesty fall either to properly define or recognize the importance of the national interest.

One such argument bemoans the cost of finding and repatriating illegals. It is said that the dollar and social cost of finding and repatriating illegals is so great as to justify amnesty. We submit that the dollar and social costs of criminal law enforcement, for example are also great, but not so great as to justify ceasing to enforce criminal laws altogether. Moreover the dollar and social cost to Americans in the absence of immigration law enforcement are at least as great as those in the absence of criminal law enforcement. The number of well-paid jobs held by illegals but desirable by American workers is satisfactory proof in our judgement. A similar argument that since all illegals cannot be found and that the problem is therefore unsolvable fails equally as a justification for amnesty.

Perhaps the most appealing argument favoring amnesty postulates that illegals are exploited and since they are exploited legalization is necessary in the interest of justice. It is difficult to counter the emotionalism and sense of fair play in which this argument is couched. Nevertheless, it is necessary in the national interest to look with equal compassion upon the plight of supplanted Americans desiring to work.

It is undeniable that illegals are exploited. What is perhaps a revelation to some, however, is that the kind of exploitation is different from what is stereotypically portrayed. With large numbers of illegals employed in all economic sectors making much more than minimum wages, the emotional power of the exploitation argument loses much of its force. In the Huddle study cited earlier, illegals on construction sites in Houston were exploited, but not in the same fashion as one might expect. Illegals there were paid using the same salary scales as Americans. They were exploited by foremen exacting fees in exchange for jobs. The point here is not that some types of exploitation are acceptable as against others. The American Legion simply takes the position that our greatest policy concerns ought to employ greater compassion for Americans than for those having violated our immigration laws. In our judgment the same reasoning ought to apply to those illegals having been in violation of the law for so long that they have even become productive members of their respective communities.

The American Legion takes the view that policing U.S. borders is a sovereign right. As a nation we must seriously regard immigration, legal or illegal, with a sense of national interest. Where immigration is concerned, this nation has always been and can continue to be the most generous in the world. We submit that American immigration generosity is something this nation has given the world, a gift which we can all be proud of. To adopt amnesty or some other

form of legalization for the undocumented, however, is an unsupportable forfeiture of sovereign control over precisely how generous we as a nation can afford to be.

The subject of this statement has been confined to our position on amnesty. This statement however, would be incomplete if some alternative were not offered. We have an alternative which we submitted to this Subcommittee in the form of a statement on the subject of employer sanctions and worker identification. It is our conclusion that even in the absence of accurate estimates on the number of illegals in this country, a preponderance of evidence exists suggesting that the problem is large enough to justify the severity of a nationwide employer sanction/tamper-proof identification system. Importantly, we regard the employer sanction/identification program as a policy appropriately adopted instead of amnesty, rather than along with amnesty. ●

AFTER AWACS

● Mr. HART. Mr. President, in a perceptive analysis the Wall Street Journal today examines some of the lessons to be learned from the administration's successful effort to win approval of the AWACS sale. Criticizing the administration's failure to put the sale into the context of America's strategic interests, the Journal points out that the critical question about the sale has still not been answered: How does it better protect the oil fields or deepen our relations with the Saudis to leave the planes behind and bring the American crews home?

I commend the Journal for calling on the administration to begin some conceptual thinking about foreign policy and for emphasizing the need for foreign policy decisions to be related to one another. So far President Reagan has failed to outline a broad foreign policy into which individual decisions either fit or make sense. As a result there has been a serious failure in building consensus in this country on foreign policy issues vital to the United States. I ask that the editorial be printed in the RECORD.

The editorial follows:

AFTER AWACS

The big potential danger in the administration's victory on the AWACS sale to Saudi Arabia lies in the administration's own reaction. Flush with elation over pulling the political chestnuts out of the fire, it may forget that as a whole the AWACS episode was an exceedingly bad show.

The problem with the sale is that it makes no particular sense in terms of American strategic interests. The AWACS planes are already in Saudi Arabia, which in light of the Iraqi-Iranian war swallowed its Islamic pride and invited in the U.S. Air Force. The question that has dogged the administration's case, and is still not answered, is this: How does it better protect the oil fields or deepen our relations with the Saudis to leave the planes behind and bring the American crews home?

It is of course true that as the situation developed defeat of the sale would have been an enormous irritant in our relations with the Saudis, probably even larger than the irritant its approval will be in our relations with Israel. But if anyone in the administration had been paying attention, plenty of alternatives were available. The simplest of these would have been to offer the Saudis their choice of the AWACS with joint command or outright sale of the E2-C, somewhat less capable but serviceable for these pur-

poses. Since precedent exists for both of these arrangements, unlike the outright sale of the AWACS, the sale would never have become a symbolic cause celebre.

Instead, the administration involved itself in a major legislative battle through inadvertence. The sale was promised by the Joint Chiefs in the fading days of the Carter administration and adopted by the Reagan Pentagon before it had even staffed itself up. In the end, such matters as defense of the Persian Gulf became almost irrelevant to the argument. The best argument for the sale was that its defeat would be a serious blow to the President's credibility. And the best argument against the sale was that its defeat would send the message, don't ever come up here again with this kind of no-win proposition.

We can hope that the administration will learn the lesson even without the crippling punishment, and that the Awacs episode could be written off as merely an early mistake. But we wish this hope will be backed by more confidence. With the exception of a thoughtful set of strategic weapons decisions, there is not much evidence the administration's national security apparatus is working much better now than when it signed on for Awacs. Nor in discussion of the sale have we seen any particular indication that the administration recognizes it made any mistake except not starting to lobby soon enough.

What in general is needed is some conceptual thinking about foreign policy. About the last thing we mean by this is one grand foreign policy speech full of abstractions. What we do mean is a sense that the administration's major foreign policy decisions have passed through the same mind, so that one is related to another, so that they are something more than the random outcome of bureaucratic infighting. This probably requires a single dominant personality, which probably means the President laying hands on the reins himself.

The Awacs sale could become the starting point of this process, if it could now be turned into one part of a plausible defense of the Persian Gulf. It would look much different if it were integrated with Awacs in Egypt and Turkey, and if there were forces which could be called upon if it detected some actual threat. Any serious analysis will find that there is no substitute for American ground forces somewhere in the region; while the precise modalities are not clear, this is the problem on which the administration ought to be working.

Perhaps the most galling thing about the Awacs sale is that the Saudis have been working against any American presence. The administration promises us that the Awacs sale will make them more forthcoming; we hope it can deliver. It may ask too much for the Saudis to join the Camp David process or to allow American bases on their own soil. But surely we could ask them to drop their hostility to Egypt, Oman and any other Arab state that does choose to side more openly with the U.S.

The administration has a right to congratulate itself on the Awacs victory; it played the political game well, and this come-from-behind victory ought to help in other battles like budget-cutting. But we hope that in the cold light of post-game analysis, the administration recognizes that the whole drama was created by mistakes that should not be repeated. ●

HIGH INTEREST RATES

● Mr. BOREN. Mr. President, while our attention has been focused elsewhere in the past several days, the economic news on nearly all fronts has continued to be of grave concern.

The composite index of leading economic indicators fell 2.7 percent last month. The Commerce Department reports that is the largest monthly decline since last year's recession, and the fourth decline in the last 5 months. In addition, the 2.7 percent drop was the largest since the 4 percent drop in April of 1980. It is worth noting that the index had fallen five-tenths of 1 percent in August, after rising three-tenths of 1 percent in July.

It is further evidence that the recession declared by the administration is in fact in place and continuing. Still further depressing was the statement by administration economists yesterday that it is hard to believe that the United States can have rapid growth next year. Such was the assessment of Robert Dederick, Assistant Secretary of Commerce for Economic Affairs. Even though Dederick said the recession would, in his opinion, moderate by early 1982, his assessment that the recovery was unlikely to be as brisk as earlier forecasts is not good news.

The administration's economic recovery program has as a cornerstone rapid economic recovery. We have been told from the beginning that the combination of spending cuts and tax cuts would lead to the kind of stimulating economic activity that would reduce inflation and be the base of economic recovery.

Now, we have an administration spokesman telling us that the recovery will not be as bright as projections had indicated.

Savings and loan institutions are in deep financial trouble still, and we in the Congress are being asked to consider further measures to keep this important segment of our financial structure afloat. At the same time, the Chairman of the Federal Reserve Board, Paul Volcker, continues to say that the Fed's prescription for success is more of the same tight money policy which they have pursued since last year.

If there is one bright note on the economic horizon, it is that the prime rate has been reduced to 17½ percent by the Continental Illinois National Bank & Trust Co. of Chicago, the Nation's seventh largest bank, and predictions are that other financial institutions will follow and that further reductions in the prime may be expected.

But, over all, the economic news is not pleasant. The Chrysler Corp. third quarter loss was set at \$149.3 million. The loss is blamed on high interest rates and generally poor economic conditions.

Mr. President, now that we have decided the AWACS issue, we must again turn our attention to its previous focus—the economic health of our country.

In that regard, I compliment the minority leader, the distinguished Senator from West Virginia, Senator BYRD, for his appointment of a task force to address the problem of high interest rates. I am proud to serve as a member of that task force and I express the hope that its deliberations can lead to some constructive suggestions on how to reduce interest rates that can best be described as confiscatory.

I urge the administration to undertake

the same kind of review and employ the tools at their command to achieve the same goal. Victories for the President in the foreign policy area will ring hollow if his domestic initiatives are undercut by inattention to the threat posed by high interest rates. ●

OIL POWER

● Mr. HART. Mr. President, in an editorial this morning the Washington Post calls on the United States to stop subsidizing Libyan terrorism by eliminating all imports of Libyan oil. The editorial points out that Libya continues to be a major threat to the stability and peace of its region because of the enormous oil revenues that it commands. The purchase of Nigerian oil would be a much better alternative.

Two weeks ago I offered an amendment to prohibit all further imports of Libyan oil. Although the Senate narrowly defeated my amendment, sooner or later our Government will have to confront the fundamentally moral issue of continued financing of Qadhafi's terrorism. I intend to offer the amendment again at the appropriate time. The Post editorial firmly supports the need for this measure. I ask that the editorial be printed in the RECORD and urge my colleagues to carefully consider the arguments for ending U.S. purchases of Libyan oil.

The editorial follows:

OIL POWER

OPEC's agreement on oil prices represents the success of a strategy that Saudi Arabia has been pursuing implacably for nearly three years. It has been an awesome demonstration of economic power. Now the question is what the Saudis will choose to do next.

The struggle within OPEC has been between the Saudis and a group of governments—Iran and the Africans—who were the leaders in the push for larger and faster oil price increases. To force the high-pricers to conform to Saudi price policy, the Saudis have been selling their oil a little below other countries', and they have produced a little more of it than customers wanted. They have drowned their competitors in Saudi oil.

That's what created the present slight surplus of oil on world markets—the alleged glut. Although that glut is genuine, the thing to remember is that the Saudis alone created it, and they can eliminate it whenever they please. The Saudis have hinted that, after imposing a unified OPEC price, they would take the responsibility for seeing that prices don't decline further. That means a little tightening to end the present downward trend. Do they mean to maintain the price in dollars? Or will they maintain it in real terms—that is, dollars adjusted for inflation? Don't count on the market's staying soft much longer.

But the Saudis' exercise of oil power has implications beyond pricing. It has created an interesting opportunity for them, in cooperation with the United States and the European governments, to deal with Libya. Now is the time for the United States to pull all American citizens out of Libya and, with the Europeans, stop buying Libya's oil. There will be no oil shortage.

Nigeria was one of the high pricers and, because of it, has lost most of its customers. From last December to August, its production fell by two-thirds. If Libya's present customers swung to Nigeria, the Nigerians could supply them immediately with plenty of capacity to spare. Nigeria is a democracy, with a large population and urgent needs for de-

velopment capital. Unlike Libya, Nigeria does not use its oil revenues to run assassination squads, or to invade its weaker neighbors, or to instigate subversion in other countries.

With the AWACS vote, the Senate supported President Reagan in a policy of everyone hopes—working with Saudi Arabia toward greater stability and peace in that region. Libya is a major threat to that stability and peace because of the enormous oil revenues that it commands. The United States and Saudi Arabia are now in a position, with a little European assistance, to turn off the Libyans' oil money. ◊

A NEW STRATEGY FOR RETIREMENT POLICY

● Mr. HART. Mr. President, in coming months we will be searching for solutions to the shortrun and longrun financial problems of the social security system. Our goal is to provide a decent standard of retirement living for American workers without diminishing the overall performance of our economy. Achieving this requires that we look beyond social security and consider the whole range of public and private pension and retirement programs that have been established in the last 45 years.

In a recently released study, "A New Strategy for Retirement Policy," the Committee for Economic Development has put forth a thoughtful, farsighted set of proposals. While I do not fully agree with all of their recommendations, I commend this study to my colleagues for its careful considerations of these difficult issues.

I ask that a summary of the report from the October 1981 issue of *Financier* magazine be read into the Record.

The summary follows:

A NEW STRATEGY FOR RETIREMENT POLICY

(By Research and Policy Committee, CED)

Over the last 45 years, the US has built a huge and diversified assortment of pension and retirement programs designed to provide a decent standard of retirement living for US workers and their dependents, the Subcommittee on Retirement Policy of the Committee for Economic Development affirmed.

But it found that efforts to attain this goal have too often been uncoordinated and shortsighted and have failed to recognize that changes in some retirement programs affect the growth of personal saving as a source of retirement income, as well as the overall performance of the economy.

Consequently, unless changes are made, this nation faces a future in which the cumulative effects of all these decisions could prove disastrous, it warned.

Yet with the proper changes, the Subcommittee declared, the US can evolve retirement policies that society can afford, that satisfy the diverse needs of the elderly, and that support a healthy and expanding economy.

An edited version of the Introduction and Summary of the Report follows:

Progress in extending retirement benefits has been substantial. Throughout the '60s and '70s, the proportion of the elderly living in poverty, as measured by cash income, declined from about 35 percent to 14 percent, which is only slightly higher than the percentage for the entire population.

Improvement in the income security of the elderly has resulted from the rapid economic growth that occurred during the '60s, the expansion of private pensions, and the growth of Federal expenditure programs for the elderly, including higher Social Security benefits and the expansion of in-kind benefits such as Medicare and food stamps. In

fact, when in-kind benefits are included in their income, poverty among the elderly falls below the incidence for the rest of the population.

But if public and private retirement systems continue to promise more improvements, especially in benefits during periods of economic slowdown, there is strong reason to believe that neither Government nor business will be able to ensure that these new obligations will be met.

By late 1982, low productivity, persistent unemployment, and high inflation will cause a financing crisis for the Social Security system, which will have insufficient funds to meet mandated retirement benefits. Congress can be expected to take action to solve the immediate financing problem, but such a solution would only be temporary.

Demographic projections indicate that by the early part of the next century, almost one in five Americans will be over 65 years of age, compared with one in ten in the mid-'60s, when Government programs for the elderly were expanded.

DISASTER ON THE WAY

These basic trends suggest that a retirement disaster is on the way early in the 21st century. Action is needed now to avert it because Social Security is widely regarded as a long-term commitment that cannot easily be changed.

Social Security is not the only part of the retirement system that is in trouble. Employer pensions plans for Federal employees have extremely large unfunded liabilities, and the cost to the Federal Budget of meeting benefit payments is exceptionally high given the relatively small number of workers covered by these plans. The finances of state and local governments are being strained by the rapidly increasing share of expenditures they must allocate to pension fund payments.

In contrast, the vast majority of private pension plans will generally have less difficulty meeting their obligations to future retirees because larger portions of their liabilities are funded.

In the past decade, policy makers in Congress and successive Administrations and at the state and local government levels have failed to recognize the full implications of their policies concerning retirement income for the elderly.

Public policy for retirement cannot be developed in a vacuum; rather, it must be made in the context of all programs affecting retirement income, with full recognition of the need for a growing role for private pensions and personal savings.

In the private sector, business executives, labor leaders, and various interest groups have sometimes failed to understand the potential impact of their retirement policy decisions on the future employment of workers, as well as on the economic health of their particular industries and the overall economy.

We believe that unless basic changes are begun now in the way this nation views retirement income and in the public and private systems that provide it, future working generations will bear impossible funding burdens, and future retirees will face insecurity and hardship.

POSITIVE FORCE FOR GROWTH

But we also believe that if the role of private-employer pensions and personal saving is expanded, this nation can develop a retirement system that not only cares adequately for its retirees, but also can be a positive force for noninflationary economic growth.

During the last 40 years, this nation has made a commitment to bringing America from a country that provided little protection for its elderly to one that provides a wide variety of both public and private forms of assistance.

Until now, Social Security has generally been able to adjust to changing social and economic conditions. Congress was able to increase Social Security benefits by gradually raising taxes over a period of economic growth and by bringing into the system workers previously excluded.

But if the cost of retirement programs continues to escalate at the present rate, there will be serious economic consequences for most groups in society. Between 1950 and 1977, private and public contributions (including Social Security costs) to retirement income programs increased from 2.3 percent of GNP to 8.2 percent; with additional scheduled increases in Social Security taxes, this percentage will rise even higher.

The future obligations of private pension plans are not a burden on future generations when the plans are fully funded. In contrast, the growth of Social Security is unfunded, and future obligations depend on contributions from future generations of workers.

MORE EQUITABLE BALANCE

It is inconceivable that this nation will deliberately choose to place such a burden on future generations or that future generations will, in fact, stand for it. There must be a more equitable balance between the benefits from retirement policies and the responsibility for providing these benefits.

What is needed is a comprehensive examination of all US retirement programs, as well as the role of private saving, in light of long-term social, demographic, and economic trends. Many of the problems of retirement programs are the result of a number of well-intentioned pension and benefit actions aimed at immediate needs and desires without corresponding attention to costs and long-term consequences. This has been especially true of policies affecting Social Security and public-employer pension plans.

Public-policy makers should first recognize that retirement policies have significant implications for such problems as inflation, unemployment, lagging productivity, and reduced competitiveness.

Moreover, the vast amounts of money required to finance public pension payments have, on balance, inhibited capital formation, thereby reducing investment in the productive base of the economy.

Once the economic impact of retirement policies is fully understood, the nation can take steps to restore a reasonable balance between pension benefits and other economic needs.

OPPORTUNITY AND RESPONSIBILITY

The goal of the new strategy should be the forging of policies that will assure a minimum level of retirement income for all workers and their families and at the same time provide an environment in which individuals, both workers and employers, have the opportunity and the responsibility to meet their own retirement income goals above this minimum level of income.

The primary goal that we are recommending in this Policy Statement will not be easily achieved. The enactment of general policies that will promote a healthy, growing, productive, and noninflationary economy are prerequisites for achieving this goal.

The US must break the current vicious circle of low saving, low productivity, and high inflation. No specific reforms will succeed in solving the retirement problem without a more effective overall national commitment to greater productivity, increased saving, and noninflationary economic growth. Only a growing economy can allow the nation to increase real benefits for retired workers and correct the inequities and inadequacies in retirement policies.

We recommend the development of a broad-based, diversified retirement system, supported by a healthy economy and, in turn, supporting the productive growth of that economy.

We recommend a retirement policy strategy that encourages individuals to acquire their retirement income from three complementary tiers.

SOCIAL SECURITY FLOOR

Social Security should provide a basic floor of retirement income upon which an individual can build. We make the following recommendations.

(1) The normal retirement age for Social Security should be gradually raised to 63 and the early retirement age to 65 in steps that produce no abrupt change in the benefits of anyone about to retire. This change should begin as soon as possible, with the retirement age increasing two months a year until the higher retirement age is reached by about the year 2000. (It would, of course, also be possible to retain the current early retirement age of 65 years if Social Security benefits for those retiring before the normal retirement age were gradually lowered to reflect the longer period over which they would receive benefits and the reduced number of years in which they would contribute to the system.) This proposal is one of the most important of our recommendations for both the short-run and the long-run control of the escalating costs of the Social Security system brought about by the increasing proportion of elderly in the population. It is based on the fact that retired workers are living significantly longer and are generally in better health than their counterparts in previous decades.

(2) So that both workers and retirees will be treated fairly, increases in Social Security benefits should be linked to an appropriate price index or to the rise in average pretax wages of workers if that should turn out to rise less than the price index. For this purpose, Government should develop a supplemental price index that reflects the consumption patterns of the elderly more accurately than the currently used Consumer Price Index does. Policy makers should review past trends in Social Security benefits and wages and consider some adjustment of benefit levels, such as indexing at less than 100 percent for a period of several years, to partially correct for past increases in Social Security benefits in excess of increases in average wage rates.

(3) Employee contributions to Social Security should be excluded from current taxable income; instead, the benefits paid to the individual after retirement should be included as part of his or her taxable income at that time. This should be accomplished on a phased-in basis and should be consistent with the need for overall Budget discipline. If, and only if, these changes are made, it would be feasible to eliminate the retirement earnings test for all Social Security retirees and thereby provide a greater incentive to continue working.

(4) Given public policies that will encourage greater individual saving and broader coverage under private-employer pensions, the Social Security "replacement ratio" (the ratio of a person's initial Social Security benefits to his or her earnings level prior to retirement) should not be increased further; indeed, as the other recommendations in this statement are implemented, it should gradually decline to a lower level.

(5) Any attempt to solve Social Security financing problems should reject general revenue financing as a solution.

(6) All early retirement benefits under Government retirement systems (Social Security and Government-employer plans) should gradually be reduced actuarially from normal retirement age benefits to recognize fully the benefits that will be paid out during an average early retiree's lifetime. Retirement systems should not be used to provide severance pay, retraining, relocation allowances, hazardous-duty premiums, or other personnel benefits different from the need for

income following retirement at the normal age.

(7) Federal workers and other noncovered workers should be brought into the Social Security system. As a compromise, if necessary, at least all new Government employees should be brought into the Social Security system beginning now.

IMPROVED EMPLOYER PENSIONS

Employer pensions can be improved and their coverage expanded through a number of tax and regulatory actions.

(1) A Government mandate for private-employer pensions is neither necessary nor feasible. Nevertheless, changes in the tax law would make it more attractive for more employers to establish pension plans.

(2) Employee contributions to both private and Government pension plans should be tax-deductible, and pension benefits should be included in taxable income when received. This will encourage the growth of employer pension plans in all industries, thereby enlarging this channel for saving and investment.

(3) Employers should have maximum flexibility in setting their own pension and retirement policies. They should be able to raise, gradually and voluntarily, the normal retirement ages in their pension plans, consistent with whatever changes are made in the Social Security retirement age. This and the preceding proposal will encourage more workers and employers to contribute to employer pension plans that can be tailored to the specific needs of their industrial and occupational structures.

(4) To encourage greater portability of vested pension benefits, an employee leaving an employer is now allowed to continue in that employer's plan and ultimately to receive retirement benefits from it. As an alternative, the employer could be permitted to offer the employee leaving the pension plan the option of transferring vested benefits into an Individual Retirement Account of life insurance annuity. This may be an especially attractive option when the pension plan is fully funded. Where the plan is not fully funded, a difficult problem exists with respect to providing equal treatment for those leaving and those remaining in the plan. All cash withdrawals of over \$500 should be forbidden.

(5) The Federal Government should take action to require all public-employer pension plans to accurately report their unfunded liabilities, as well as their normal total annual cost, to the general public in a manner similar to the Financial Accounting Standards Board's requirement that private-employer plans accurately report unfunded liabilities.

EXPANDED PERSONAL SAVINGS

Personal savings as a source of retirement income have been greatly neglected. In fact, a number of public policies have actually discouraged saving and investment.

(1) The current maximum annual tax-deductible contributions permitted under personal retirement plans (Keogh Plans and IRAs) should be raised substantially.

(2) The recently enacted Economic Recovery Tax Act contains saving provisions that are similar to this Committee's recommendations for expanding the role of personal savings as a source of retirement income. We therefore endorse this legislation and urge that on the basis of experience, the additional personal saving incentives that we recommend be considered in the future.

(3) The appropriate goal for the combined total of tax-deductible annual contributions into all such individual and corporate retirement plans on behalf of any one individual should ultimately move much closer to the maximum currently allowed for a person under a corporate pen-

sion plan. We recognize that these liberalized limits will have to be phased in gradually in order to allow future changes in them to take account of saver response and of their effect on federal tax revenues. As an interim goal, IRA and Keogh limits could be raised to the level to which they would have risen if they had been adjusted in the same way that defined-contribution pension plan levels have been adjusted under the Employee Retirement Income Security Act of 1974. In the future, such flexible adjustment of maximum contribution levels should be applied to IRAs and Keoghs as well as to corporate defined-contribution plans.

(4) Businesses that already have pension plans should be encouraged to integrate some measure of individual saving into their benefit packages voluntarily through such measures as matching thrift programs, profit sharing, and voluntary employee contributions.

GREATER WORK OPPORTUNITIES

Suitable employment opportunities for capable elderly individuals are needed if the maximum advantages of the higher-retirement-age provisions are to be realized. Changes in job design and work schedules will be needed to take into account the capabilities and interests of older workers. Public policy should remove any existing regulations and labor market practices that inhibit flexibility in work arrangements for older workers.

Even a work-related retirement system as comprehensive as the one we are recommending may not succeed in coping with the retirement income needs of all citizens. For a variety of reasons, some elderly individuals will probably continue to receive inadequate income. The most effective way to assist this small proportion of the elderly is to rely on a supplemental system of targeted welfare-type payments, rather than to enrich Social Security benefits for everyone.

Our comprehensive recommendations for strengthening the U.S. retirement system will produce additional savings that can finance increased investment in plant and equipment. In this way, pension plans and personal savings will make an increased contribution to the economic growth that is essential to a sound retirement system in the future. ●

BRING BACK THE DRAFT

● Mr. NUNN. Mr. President, our distinguished colleague, Senator BENTSEN, has written an article entitled, "Bring Back the Draft," which appeared in the fall 1981 issue of *International Security Review*.

Senator BENTSEN has thoroughly and insightfully analyzed some of the most pressing problems currently facing the All-Volunteer Force. His arguments are well-documented and persuasive, and I share his conclusions that the AVF has failed and that we must seek alternatives for meeting our military manpower requirements.

Mr. President, Senator BENTSEN has long been a consistent supporter of a strong national defense, and his article makes a significant contribution to the thorough national debate that is needed if we are to reach a consensus on the solutions to our critical manpower problems. I encourage each of my colleagues to take the time to study this article and give careful consideration to the solutions offered by Senator BENTSEN.

I ask that this article be printed in the RECORD.

The article follows:

BRING BACK THE DRAFT

(By Senator LLOYD M. BENTSEN, Jr.)

Over the next five years, the United States may well spend \$1.5 trillion on national defense.¹ To no small degree, that figure reflects past neglect of its armed forces. It reveals a now critical need to modernize weapons and to improve overall defense posture in light of the massive Soviet military threat to this nation.

Although the majority of Americans clearly endorses an increase in their investment in national security, the amount of money the government is proposing to spend provides a very convenient target of attack for those who do not see national survival in jeopardy and who believe the U.S. should be spending still more on welfare services.

The Congress has expressed its judgment by voting to increase the Fiscal Year 1981 Defense budget by \$25 billion. The Congress anticipates and will undoubtedly approve a still higher Defense budget for FY82. Most of the money in these budgets will be allocated to weapons—a new heavy bomber, 150 new ships for the Navy, an M-X missile, tanks, armored personnel carriers, and those expendable supplies most rapidly used in today's high-attrition warfare. My concern is that in focusing on new weapons—as needed as they may be—we may overlook the most important element in our defense establishment: people.

General George Patton once commented: "Wars may be fought with weapons, but they are won by men." Right now, the U.S. has manpower problems as severe as its weapons problems, quite possibly more severe. It simply does not make sense to have an abundance of weapons and a shortage of people, or to have high-performance weapons and low-performance people.

For the past eight years America has struggled to build a credible defense founded on an all volunteer force (AVF). By virtually every account the experiment has been a dismal failure and stands as the weakest link in the U.S. chain of defense.

The all volunteer force, actually a thinly disguised form of economic conscription, is one more unfortunate legacy of Vietnam. Middle and upper class Americans, repelled by a protracted war they did not wish their sons to fight in and appalled by a draft riddled with deferments and inequities, found the AVF an equitable and attractive option to compulsory military service. After the trauma and alienation of the Vietnam war, the concept of an army serving voluntarily and enticed by comparable pay and free market incentives, had broad political appeal. When President Nixon accepted the recommendations of the Gates Commission and proposed an end to the draft and the creation of an all volunteer force in 1973, the proposal won overwhelming approval in the Congress. I was among those who voted for it.

Experience since 1973 has demonstrated conclusively, however, that the decision to abolish the draft and go with a corporate military was a dangerous mistake that places U.S. security in real jeopardy. Despite the accumulation of evidence to document the shortcomings of the AVF the public and the officials who shape defense policies have ignored America's urgent military manpower problems. It might seem to be that a return to the draft is politically unacceptable. To this argument I would respond that a continued reliance on the AVF is militarily unacceptable and morally reprehensible.

Most critics of the AVF have tended to focus on the broad issues of "quantity and quality," suggesting that the U.S. is not recruiting enough people, pointing out serious problems in the reserves, and making the case that the caliber of those recruited has

been declining. These comments deserve careful analysis. However, they constitute only one part of the case against the AVF.

Theoretically, the AVF was structured to enable the U.S. to fight a war in Europe against the Soviet Union and the Warsaw Pact; it was carefully buttressed by a reverse system that would hopefully suffice until a wartime draft could produce large numbers of trained men. That the system, as currently conceived, will not work as intended or fulfill even the limited objectives set for it, is evident from the statement of General Bernard Rogers, Supreme Allied Commander, Europe: "If the United States had to go to war today in Europe, the Army would run out of trained infantrymen, artillerymen, tankers, and combat medics before the draft would take over. That is a hell of a position for the greatest country in the world."² General Rogers' comments highlight one of the AVF's main shortcomings—its lack of flexibility. With the AVF the United States has a static, narrowly-targeted manpower system that has minimal capacity for real growth. Assumptions made in 1973 are being used to deal with the complex and diffuse world situation of the 1980's.

Even if the U.S. were to conclude the AVF might be minimally acceptable in the event of a classic European war, the system was certainly not designed with the Rapid Deployment Force in mind; it did not foresee the current, unsettled situation in the Caribbean and Central America; it did not plan for the quantum jump in the complexity and sophistication of weapon systems; it did not take account of the emerging strategic importance of the Persian Gulf and Indian Ocean; and the AVF did not envision the vast and dramatic buildup of U.S. naval power.

During the era of the AVF the size of the U.S. military force has actually decreased by about nine percent.³ The services have recently trumpeted their success (abetted no doubt by depressed economic conditions) in meeting numerical recruiting goals in FY80 for the first time in four years. Unanswered, however, is the question of how those goals were established in the first place. Why has the authorized strength of the armed services been reduced from 2.33 million in FY 73 to 2.065 million in FY81?

In the absence of any convincing explanation for this gradual but steady reduction, one is tempted to wonder about the extent to which authorized strength levels have become a function of the military's ability to recruit. While the U.S. may be able to get along at current force levels for some time with the AVF, there is certainly no evidence to suggest that it could increase substantially the size of its military forces within the constraints of the present system.⁴ In fact, demographics will be working against the AVF for the rest of this century. As *The New York Times* has pointed out, "The key to recruiting is the pool of young men turning 18 years old, which numbers 2.1 million this year [1980] but will slide down to 1.8 million in 1985 and continue down to a low of 1.6 million in 1995. Of that group about 25 percent will be unavailable because they cannot pass the screening to enter the military services. Of the remaining 75 percent, about half will go to college without considering military service."⁵ According to these figures, recruiters for the AVF will have to meet their quotas from a total available population of only 670,000 qualified 18 year old males in 1985.

At a time when the Reagan Administration is apparently considering bringing another quarter of a million recruits into the armed forces,⁶ one must question whether the AVF can attract such numbers without a dramatic increase in the inducements it can offer and the cost of such incentives. Or will the AVF, desperate for new recruits, become a job corps with tanks and accept even

lower standards for recruitment as it scrambles to meet higher quotas?

In the absence of the draft, the U.S. is almost totally lacking in flexibility for meeting military manpower needs. While the nature, origins, and dimensions of the threat to U.S. security has changed dramatically over the past eight years, the U.S. is attempting to respond to that threat with a rigid AVF system embraced at the height of its disillusionment with Vietnam and weariness with the draft. The AVF, unresponsive to changing manpower needs, may further diminish America's ability to defend itself by debasing traditional military values. The quality of recruits is reduced by the very nature of an AVF which lures individuals with the promise of training for civilian life and attempts to keep them by providing as many amenities as possible during the term of service.

Less rigorous training, with less emphasis on discipline and submission, produces an army less prepared to react automatically when under fire. Loyalty to the group, or platoon, is difficult to forge when the modern-day soldier works on base by day and then goes home each night to his family. As for pride, if the major reason for a person's enlisting was his failure to find gainful employment elsewhere, he is not likely to have a sense of self-worth. These observations are difficult to sustain with empirical evidence, but an army from which recruits can resign (and some 40 percent fail to complete their first enlistment), is not likely to foster the qualities that lead to successful military performance under fire.

Another serious problem with the AVF, one that can be documented with statistics, is that the United States is now protected by a military force ethnically, economically, and educationally atypical of the nation it defends. Blacks, for example, make up about 15 percent of the U.S. youth population, but in the first half of FY80 they accounted for 21 percent of AVF enlistees and 29 percent of the Army. Comparatively, in 1974 only 10.7 percent of our armed forces was black.⁷ The AVF is increasingly staffed by rural whites and urban blacks and browns and black Army volunteers today are generally better educated than white volunteers. Blacks and Hispanics together account for about 40 percent of Army enlistments. During the Vietnam war there were understandable outcries concerning the disproportionately high number of black casualties. If the United States were to become involved in another war today under the current composition of the AVF, minority casualties would come in at staggering levels. At least in the initial stages of the fighting the middle and upper classes would be virtually untouched by the fighting.

In FY79 the 16 percent of American families with incomes under \$10,000 provided 34 percent of all DoD volunteers, and 43 percent of the Army recruits. By way of contrast, the 39 percent of the families with incomes of over \$26,000 provided only 17.5 percent of all recruits, and only 14 percent of Army volunteers.⁸ During the same year the median income for the population was \$21,500, while the median income for families of enlistees was \$13,800.⁹

It would be difficult to produce more striking evidence in support of the contention that Main Street America has opted out of military service. We have become a society in which the most prosperous and educated among us—those who have benefited most from our freedoms—are apparently content to let the poorest citizens take responsibility for defending the nation. That is an unhealthy situation for America. The U.S. retreat to the AVF means that the vast majority of those who will rise to leadership positions in society—who will hold public office, teach in colleges and high schools, serve in government, and fill the corporate

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boardrooms—will have virtually no experience in the military.

As one who fought in World War II, my vivid memories of feelings and experiences are factored into any judgment I must make on important questions of policy and national security. Anyone who has seen combat or been part of the military has a special appreciation of what it means to go to war or to threaten military action because they have also sacrificed in the cause of freedom and democracy. That sentiment may sound trite or hollow to some, but for millions of Americans it constitutes an important and enduring bond, making them particularly aware of the American freedoms and values they risked their lives to protect. I sincerely believe that this opportunity, or requirement, for service should be shouldered equally by all elements of our society. In the era of the AVF the vast majority of Americans have no concept of what it means to serve; they have no understanding or appreciation of things military, and the nation suffers as a result.

There has been a great deal of comment, criticism, and controversy recently about the low level of education among the all volunteer force. As part of the effort to discourage the AVF from meeting recruitment goals by lowering standards, Congress has mandated higher levels of education in AVF recruits.

For the military an important gauge of education is a high school diploma. Robert Stone, Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, pointed out to a House Subcommittee earlier this year, that a high school diploma is "a good indicator of potential to adjust to the discipline of a military environment. On the average, a graduate has about an 83 percent chance of successfully completing a three-year term of service whereas a nongraduate has about a 63 percent chance."¹⁰

The popular conception seems to be that the AVF has a high proportion of high school dropouts. This is not borne out by the facts. For all services, the proportion of high school graduates in 1980 was only three percent lower than in 1964.¹¹ One notable exception to this rule is the Army, where only 49 percent of the recruits in 1980 had completed high school. The Navy and Marine Corps, however, increased dramatically their proportion of high school graduates between 1964 and 1980, while the Air Force maintained its traditionally high level of education among recruits. While the AVF has fared relatively well in attracting high school graduates, it would be difficult to deny that the percentage of individuals with average and above average intellectual ability in the enlisted ranks has declined sharply in recent years while the proportion of below average personnel has increased dramatically. In his critique of the AVF in the Spring 1981 International Security Review, Congressman Robin Beard noted the Army's acute embarrassment when recalibration of test scores demonstrated that nearly half of its 1979 recruits were "Category V" in mental ability; i.e., they were drawn from the lowest 30 percent of the population as a whole.

The example of the Skills Qualification Tests has been used often, but it bears repeating because it goes to the very heart of the argument against the AVF: the ultimate criticism of any military force is that it is unable, unprepared, or unwilling to fight. In 1979 the Army tested almost 200,000 individuals to determine if they were able to perform their assigned tasks. The results were alarming: of those tested, 49 percent failed. In many of the 391 skill categories failure was almost universal. Of the petroleum personnel and scout helicopter repairmen, 92 percent failed. Of the artillery crewmen, 86 percent failed. Of the tank turret and artillery repairmen, 98 percent failed,

as did 90 percent of the nuclear weapons maintenance specialists.¹² There were only three skill categories in which all those tested managed to pass: one of them was bassoon playing.

Exposure to college has become almost unheard of among recruits in the AVF. In the last year of the pre-Vietnam draft, 17 percent of all draftees and 14 percent of all enlistees had some college education. Today only three percent of those who join the AVF have ever been to college.

Charges that the AVF relies too heavily on the undereducated and underprivileged would be less valid if it could be demonstrated that—despite its drawbacks—the all volunteer force is a first-class fighting machine, highly skilled and motivated, an American Janissary Corps capable of standing off an attack until mobilization can take effect. The evidence, unfortunately, does not indicate that this is the case. The U.S. may spend billions of dollars on sophisticated military equipment, but there is little optimism that the AVF is capable of using it effectively.

This general impression of an undertrained and generally incompetent AVF is reinforced by this country's lackluster performance in NATO competition.¹³ Senator Sam Nunn, one of this nation's best informed and most respected experts on military manpower suggested: "Our military commanders both in NATO and Korea have testified this year [1980] on the record before the Subcommittee on Manpower and Personnel that they are noticing a definite inability of an increasing number of their people to retain their training. This means that you must retrain often, which has a huge impact on costs and readiness. We are losing the confidence of our allies. Talk to some West Germans off the record and ask them what they think of the U.S. ability to fight a war. It is very, very low."¹⁴

I have spoken to some West Germans on this very subject, including Chancellor Helmut Schmidt. I asked the Chancellor whether West Germany was prepared to meet fully its increased NATO obligations. After replying in the affirmative, Chancellor Schmidt noted that the United States really was not sacrificing in the cause of defense. "If you were serious," he said, "you would have a draft. And you don't." The Chancellor, of course, was perfectly correct on factual grounds and did not have to stress the point that the young men of Germany (and almost all other NATO allies) are subject to the draft. His comments, however, suggest the extent to which the United States, without a draft, can be seen even by good friends as "not sacrificing" for defense, which gives U.S. allies a ready-made retort when they are sometimes less than anxious to make the sacrifices asked of them.

When considering the relative merits of the AVF and a return to the draft, the fact that the configuration of our present military manpower system places about one-half of our combat capability in the reserve forces assumes new importance. By providing protection against conscription, the AVF has diminished incentives to join the reserves and helped create legitimate doubt about our ability to mobilize sufficient manpower in times of crisis.

Discussions of reserve force levels and functions are usually controversial, and subject to conflicting data but there is wide agreement that the system is designed to function as follows: in the event of a war the active forces, supplemented by the Selected Reserve (reservists who train regularly in organized units) would be deployed. The active forces are currently at their authorized levels (although the rationale for these levels is not clear) and the Selected Reserve is about five percent below the 1973 levels and approximately 17 percent below

the Department of Defense's stated mobilization requirements.¹⁵

The problems in the Selected Reserve are slight compared to those apparent in the Individual Ready Reserve (former active or Selected Reserve personnel who no longer train but have time left on their military service obligation or who have volunteered to remain in the IRR). In the event of mobilization the U.S. would rely on the IRR to augment units and replace casualties. Amid the conflicting claims and statistics about the poor state of the Army IRR, two points stand out. Current Army IRR strength is 73 percent below the FY73 level; and there is an unmet requirement for somewhere between 400,000 and 600,000 Army IRR personnel. All of this means that, in the event of mobilization, the Army alone would be short almost a quarter of a million trained personnel. To compound this difficulty, the shortages would quickly be felt in some of the areas most important to combat success: infantry, armor, artillery, and combat engineers.

The experience of the past eight years strongly suggests that the AVF is a failure and is the feet of clay of the American defense effort. It does not represent the society it is charged with defending; it lacks flexibility; it will have increasing problems attracting the requisite number of qualified recruits; by its very nature it erodes the sense of discipline and shared risk essential to military success; it is unable to manage or cope with serious reserve problems; it has failed the test of combat readiness, and has, in some respects, become an employer of last resort.

A return to the draft is the only answer to the very obvious and important problems that plague the AVF. I referred to the expenditure of scarce resources on military equipment and personnel; unfortunately, a consensus on these questions begins to fade when we move away from pay and hardware, when the issue is no longer "simply money" but is the draft. Americans who are prepared to spend billions for defense are strangely reluctant to make a penny's worth of personal commitment to military service.

Despite its commitment to rebuilding America's military prowess, the Reagan Administration remains trapped in a marriage of convenience with the AVF. With the exception of Senators Hollings and Nunn, and several others on Capitol Hill, Congress has balked at taking a hard look at the draft as the best—indeed the only—acceptable answer to the troubled AVF. In 1979 when President Carter proposed legislation that would simply require young Americans to register for the draft in case mobilization was required at some future date, Congress refused to deal concretely with the issue. This reluctance is particularly puzzling since there is substantial evidence to suggest that the majority of Americans acknowledge the draft as an important part of democracy.¹⁷ The American people perceive the problem, and they are willing to sacrifice to resolve it, but the Congress and the Administration hesitate to act. Despite indications of potential popular support for a return to the draft, there is currently little reason to believe that either the Administration or the Congress is actually prepared to consider it or to confront certain factions that steadfastly oppose the draft.

I believe the time has come to open an honest, measured, national debate on the draft. While I do not have all the answers to the complex and emotional questions about a return to universal military service, I would suggest the following as some basic concepts that should underlie a return to the draft:

1. Ideally, I would like to see the draft as one option in a program of overall national service in which every citizen, upon graduating from high school or reaching the

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age of eighteen, would acknowledge and accept a period of service to the country. However, the numbers involved in a program of national service are enormous. Included are almost four million young people per year (if men and women are included) with costs possibly in excess of \$20 billion a year,¹⁰ the creation of a new bureaucracy, and the difficult assignment of finding productive work for that many people each year. Obviously, a program of national service, suggested by Congressman McCloskey and Senator Nunn, among others, is still in the very earliest stages of development. With proper planning, and in a suitable economic environment, it could be a viable program in the future, but I do not see how it could be implemented with the speed required to address the current problems of the AVF.

2. At this time I would be satisfied with a symbolic commitment to national service; this could be fulfilled by requiring registration, by men and women, at age seventeen.¹¹ The act of registering would put our young people on record as acknowledging an obligation to the defense of America.

3. I would propose a draft without deferments or exemptions except for the handicapped. The method of selection must be fair and be perceived as fair; the birthday lottery system would meet that requirement.

4. Some have suggested that, with recruiting for the AVF running at current levels, very few people would actually have to be drafted each year, and those who were selected would feel discriminated against. As an alternative, I propose that the U.S. draft for one-half of its military requirements each year and cut back proportionally on the number of recruits taken into the AVF. This approach would have two important advantages: it would make the military more representative by increasing the proportion of draftees, and it would raise the caliber of those volunteering since there would be far fewer places to fill with recruits.

5. Individuals would be drafted both for the U.S. standing forces and for the reserve. They would be given a choice of service: an 18- to 24-month term in the regular forces, with no further commitment of any kind to national service, or six months term in the reserve with an ongoing six-year reserve obligation. Draftees would be paid a minimal salary and would not receive the same benefits accorded to recruits. Those who serve for 18 to 24 months should, when honorably discharged, be granted a one-time bonus of from \$5,000 to \$10,000. This would be a reward for those who had been selected and who had served their country. Draftees opting for reserve duty could receive a smaller bonus, or the bonus could be eliminated in this instance. Much would depend on whether an incentive for reserve duty would be required.

6. Those who were drafted and could demonstrate conscientious objector status should be offered alternative service, perhaps in Veterans hospitals, social service, or civil defense.

A return to the draft along the lines I have proposed would not totally solve the U.S. military manpower. It would not provide the Navy with the 20,000 Petty Officers it so urgently requires; it would not necessarily solve the problem of retaining senior and talented NCOs; it would not be perfectly "fair" since not everyone would be required to serve; and it might well bring hundreds of thousands of young men into military service who do not want to be there. Since the draft would be random, it could not select for quality.

Consider, however, what a return to the draft—for one-half of our annual military requirements and for the reserves—would accomplish.

It would contribute to correcting the disproportionate ethnic and educational composition of the AVF.

It would bring the middle and upper classes back into the American military.

It would result in significantly lower military personnel costs, and some of the savings could be used to provide higher pay for the Petty Officers and NCOs currently leaving the service in great numbers.

It would automatically raise the standards the military could demand of its recruits.

It would reduce substantially the huge, unwieldy, and costly number of dependents—currently some 233,000—that accompany the AVF in Europe.

It would enable the U.S. to expand rapidly—or contract—the number of people in our military forces.

It would solve the increasingly serious problems of undermanned reserves.

It would reduce the uncertainty that plagues the AVF, and it would help solve the demographic problem of a shrinking manpower pool.

It would force some four million young Americans and their families from all social strata each year to acknowledge that there are obligations, as well as privileges, to life in a democracy.

It would provide talented, qualified recruits with additional incentives to remain in a military career.

It would result inevitably in a more intelligent, more capable, better educated, and more representative military which was better able to defend this country and its commitments abroad.

It would achieve these objectives at less cost than the AVF.

On balance, the logic behind a return to the draft is overwhelming. But there is more involved than simple logic. There are important concepts like duty, patriotism, and equity—principles fundamental to America's success that were overlooked or rationalized away eight years ago when this country retreated to the AVF.

More than any other nation, the United States of America accords its citizens freedom and hope. Not just the freedoms spelled out so eloquently in the Bill of Rights, but the freedom to succeed and build a better life. Those freedoms are under constant attack. They have become a rarity in a world that is increasingly oppressive, authoritarian, and aggressive. It would be folly to assume that our freedom alone makes us invincible.

Almost a century and a half ago Daniel Webster suggested that, "God grants liberty only to those who love it, and are always ready to guard and defend it." Liberty has been granted to America. If the U.S. wants to preserve its freedoms, its citizens and its government must be prepared to defend the system that makes them free. We cannot rely on modern technology to do the job; we cannot contract out the responsibility to fight and die for America.

If this nation is to succeed in the decade of the 1980's, it must rekindle the spirit of patriotism and unity that sets it apart from the rest of the world. It must recognize that the privilege of democracy includes an obligation to serve in the cause of liberty.

FOOTNOTES

¹ This figure has appeared so frequently in the press (most recently in Michael Getler, "Arms Budget Battle Heats Up," *Washington Post* (September 4, 1981), p. 10, that it has become conventional wisdom. In the light of looming budget deficits, the \$1.5 billion outlay may have to be reduced but there is little question that the final figure will be massive by any definition.

² General Rogers made these candid remarks on May 27, 1981, at a press conference following his appearance at the Chicago Council on Foreign Relations.

³ Robert L. Goldich, "Recruiting, Retention, and Quality in the All-Volunteer Force," Report No. 81-106F, Congressional Research Service, Library of Congress, June 8, 1981, p. 11.

⁴ *Ibid.*, p. 23.

⁵ Richard Halloran, "Doubts Persist on Quantity and Quality of Enlistees," *The New York Times* (September 27, 1980), p. 7.

⁶ Michael Gordon, "If Reagan Wants to Expand the Military He May Also Have to Revive the Draft," *National Journal* (August 22, 1981), p. 1,504.

⁷ Sam Nunn "Who'll Fight for America," *Time* (June 9, 1980), p. 23.

⁸ Committee on Armed Services, United States Senate, Subcommittee on Manpower and Personnel, hearing on Military Compensation, June 2, 1980, p. 26.

⁹ *Ibid.*, p. 27.

¹⁰ Robert Stone, February 26, 1981, statement to the Military Personnel and Compensation Subcommittee of the House Armed Services Committee, p. 9.

¹¹ *Ibid.*, p. 10.

¹² Senator Nunn and Congressman Beard have been in the forefront of those calling attention to the AFQT scores. See "Doubts Mounting About All Volunteer Force," *Science* (September 5, 1980) for an interesting discussion of the issue.

¹³ Congressman Robin Beard, "The All Volunteer Force: It Isn't Working," *International Security Review* (Spring 1981), Volume V, No. 1.

¹⁴ Sam Nunn, "Who'll Fight for America," *Time* (June 9, 1980), p. 32.

¹⁵ Goldich, "Recruiting, Retention, and Quality," p. 16.

¹⁶ *Ibid.*, p. 19.

¹⁷ Dick Kirschten, "The Flap Over Draft Registration—Only the Public Seems To Like It," *National Journal* (April 19, 1980), p. 645.

¹⁸ Halloran, "Doubts Persist on Quantity and Quality of Enlistees." All cost estimates for a program of national service are obviously tentative.

¹⁹ The Supreme Court has ruled that women do not have to register for the draft. For that reason I would suggest a requirement for "national service," with the understanding that not everyone who registered would be called upon to serve. ●

ORDER FOR RECOGNITION OF SENATOR SCHMITT AND SENATOR BENTSEN ON MONDAY

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday, when the Senate reconvenes, after the recognition of the two leaders under the standing order, there be special orders in favor of the distinguished Senator from New Mexico (Mr. SCHMITT) for not to exceed 15 minutes, and the distinguished Senator from Texas (Mr. BENTSEN) for not to exceed 15 minutes.

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

Mr. BAKER. Mr. President, I will withhold any further announcements about the schedule of the Senate and other business, for the time being, and 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. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a number of items that may be dealt with

by unanimous consent according to the notations in my folder today.

I invite the minority leader's attention to them in the following order.

I am prepared to ask the Chair to lay before the Senate a House message on H.R. 4608. In addition, I am prepared to ask that the Chair appoint conferees on the farm bill; to take up one matter on the Legislative Calendar, that being order No. 347, a joint resolution; and finally to deal with two items on today's Executive Calendar, those appearing on page 2 under "Corporation for Public Broadcasting."

If the distinguished minority leader is in a position to clear any or all of those items, I am prepared to ask the Senate to proceed to their consideration at this time.

Mr. ROBERT C. BYRD. Mr. President, the legislative items mentioned by the distinguished majority leader are cleared on this side of the aisle. However, the executive items have not been cleared.

Mr. BAKER. I thank the minority leader.

EXTENSION OF DEPARTMENT OF JUSTICE APPROPRIATION AUTHORIZATION ACT, 1980

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4608.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 4608) entitled "An Act to continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period, and for other purposes", and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "February 1, 1982".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

FOOD AND AGRICULTURE ACT OF 1981

Mr. BAKER. Mr. President I ask the Chair to lay before the Senate a message from the House of Representatives on S. 884.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 884) to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

(The amendment of the House is printed in the RECORD of October 22, 1981, beginning at page H7684.)

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. HELMS, Mr. DOLE, Mr. HAYAKAWA, Mr. LUGAR, Mr. COCHRAN, Mr. HUDDLESTON, Mr. LEAHY, Mr. ZORINSKY, and Mr. MELCHER conferees on the part of the Senate.

NATIONAL HOME HEALTH CARE WEEK

Mr. BAKER. Mr. President, I ask that the Senate proceed to the consideration of Calendar Order No. 347, Senate Joint Resolution 113, a joint resolution to designate the week beginning November 8, 1981, as "National Home Health Care Week."

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 113) to designate the week beginning November 8, 1981, as "National Home Health Care Week."

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the second time at length, and the Senate will proceed to its consideration.

(By request of Mr. BAKER, the following statement was ordered to be printed in the RECORD:)

● Mr. HATCH. Mr. President, today we will consider Senate Joint Resolution 113, which designates the week of November 8 as "National Home Health Care Week."

When I introduced Senate Joint Resolution 113, on October 6, I stated that we have a growing population of older Americans in need of both chronic and acute long-term health care. Home health agencies have proven they can give cost-effective quality care as an alternative to these health care situations. Most importantly, the care is given in the home where our elderly infirm citizens and family members would prefer to remain.

A final hearing on November 10 in the Senate Labor and Human Resources Committee will hear testimony from the General Accounting Office (GAO) and other individuals concerning my bill, S. 234, the Community Health Services Act. National Home Health Week will occur simultaneously with this hearing and will honor home health organizations and the professionals who provide this most vital service. It is especially appropriate during the month of November when we honor the family and its traditions, that we highlight the work of those who help our growing population of senior citizens preserve their home lives and independence.

I urge my distinguished colleagues to consider this measure favorably and join in honoring the achievements of these unique health workers.●

The joint resolution (S.J. Res. 113) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 113

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare program including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home health agencies providing these services has increased from less than five hundred to more than three thousand; and

Whereas many private and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8, 1981, hereby is designated "National Home Health Care Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

ORDERS FOR TUESDAY

Mr. BAKER. Mr. President, the request I am about to make has been cleared, I believe, on both sides after a great deal of effort by a number of Senators. I hope it will be agreed to.

Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, November 2, it stand in recess until the hour of 10 a.m. on Tuesday, November 3; that following the recognition of the two leaders under the standing order and any special orders provided for there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m. with statements therein limited to 5 minutes each; that at 11 a.m. on Tuesday the Senate turn to the consideration of Calendar Order No. 348, H.R. 4209, the Department of Transportation appropriations bill; and that following the consideration of the Transportation appropriations bill the Senate turn to the consideration of Calendar Order No. 352, H.R. 4144, an act to make appropriations for energy and water development.

Mr. President, before the Chair acts in granting or withholding my request, let me say that at one time we had thought it might be possible to get a short time limitation on debate for the Department of Transportation appropriations bill. I believe it is probably not possible to include that time limitation in the request this afternoon. Hence, I have not done so.

But I hope Senators will address their attention to that and will permit the leadership on Monday to consider a time agreement which would suit the convenience of Senators and would be assured under the circumstances that permit.

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

Mr. BAKER. I thank the Chair and I thank the minority leader and all Senators who participated in these negotiations.

ORDER EXTENDING ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until no later than 4 p.m., and that the time limitation for Senators to speak therein be removed.

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

ORDERS FOR MONDAY, NOVEMBER 2, 1981

ORDER FOR ADJOURNMENT UNTIL MONDAY, NOVEMBER 2, 1981

Mr. BAKER. Mr. President, I further ask unanimous consent that at the conclusion of the remarks to be made by the distinguished minority leader, the Senate stand in adjournment until the hour of 12 o'clock meridian on Monday, November 2.

ORDER DISPENSING WITH READING OF THE JOURNAL, THE CALL OF THE CALENDAR, AND RECOGNITION OF SENATORS SCHMITT AND BENTSEN

Mr. BAKER. Mr. President, I further ask unanimous consent that when the Senate reconvenes following its adjournment, the reading of the Journal be dispensed with, with no resolutions coming over under the rule; that the call of the calendar be dispensed with; and that following the recognition of the two leaders under the standing order, there be special orders in favor of those Senators named before, that is to say, the Senator from New Mexico (Mr. SCHMITT) and the Senator from Texas (Mr. BENTSEN) under the terms and conditions previously stated.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that following the two special orders there be a period for the transaction of routine morning business not to exceed 20 minutes with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

LEGISLATIVE PROGRAM FOR NEXT WEEK

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader state the program for Monday, and as far into next week as he can at this time foresee?

Mr. BAKER. Mr. President, I thank the minority leader.

The Senate has done a remarkable thing this week. It has acted with great dispatch and promptness in the consideration and disposition of appropriation bills to the point where it has created a high-class problem for the leadership, that is to say, we finished the agriculture appropriations bill one full day before it was scheduled, and that is good news. The bad news is we are a little hard put to find out what we are going to do on Monday.

S. 1086, THE OLDER AMERICANS ACT

I would hope, Mr. President, that on Monday after we convene at noon we

will be able to consider S. 1086, the Older Americans Act. That is not yet cleared, I understand, on both sides, but I would ask Senators to consider the possibility of taking up and dealing with that act at that time.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILLS ON TUESDAY

Mr. President, further I would point out that on Tuesday, after the Senate reconvenes at 10 o'clock, we will proceed to the consideration of the Department of Transportation appropriations bill at 11 o'clock.

ENERGY AND WATER DEVELOPMENT ACT

Following that, Mr. President, we will proceed to the consideration of the Energy and Water Development Act.

STATE, JUSTICE, COMMERCE APPROPRIATIONS ACT

Beyond that, Mr. President, there are a number of other appropriations bills, including the possibility of State, Justice, Commerce for later in the week on Thursday or Friday.

I reiterate the Senate is making good progress on appropriation bills, and I hope we continue that. If we do, I think it is not likely that the Senate will hit a roadblock on the completion of our responsibility on the consideration of money measures.

So, Mr. President, in answer to the minority leader I expect next week to be a busy week. If we stay on schedule it will not, however, be a late week. We will be in session each day next week including Friday, and votes will occur on each day I expect. Beyond that, Mr. President, the schedule is less clear, and I will have a further announcement the following week.

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

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

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

THE UNITED STATES SENATE

THE SENATE IN THE "ERA OF SUSPENSE": 1825-1828

Mr. ROBERT C. BYRD. Mr. President, my most recent statement on the Senate's history concluded with the year 1825. The so-called "Era of Good Feelings," along with the second administration of James Monroe, had just ended on a decidedly sour note. Any remaining good will among statesmen had been drained away by the presidential election of 1824, a contest so close that it had to be resolved in the House of Representatives. Today I would like to examine the next four years of the Senate's history, the Nineteenth and Twentieth Congresses, covering the period 1825-1828.

As they had hoped it would, the hard-won Missouri Compromise brought the senators and representatives a respite

from the nagging problem of slavery in the territories that had plagued the Congress throughout the preceding decade. All, however, was far from tranquil. New crises arose which threatened to dissolve the Union. Unlike the beginning of Monroe's eight years in the presidency, there was no "honeymoon" between the new president and the Congress. John Quincy Adams' administration got off to an extremely inauspicious start.

Adams was elected president by the House of Representatives on February 9, 1825. In the end, he owed his victory to Alexander Hamilton's brother-in-law, the elderly Federalist, New York Representative Stephen Van Rensselaer, who cast the deciding vote with the crucial New York delegation. The last of the great Hudson River patroons, Van Rensselaer was reportedly undecided between candidates Andrew Jackson, then a senator from Tennessee, and William Crawford, former senator and Secretary of Treasury.

As he shared a boardinghouse with the persuasive Senator Martin Van Buren of New York and other Crawford partisans, it was assumed that his vote would finally go to Crawford.

On the morning of February 9, Van Rensselaer assured his fellow lodgers over breakfast that nothing could induce him to vote for Adams. But when he arrived at the Capitol, he was set upon by Henry Clay and Daniel Webster, who suggested strongly that a victory for anyone but Adams would have grave consequences for the security of Van Rensselaer's own property. In his autobiography, Van Buren described what happened next:

He (Van Rensselaer) took his seat fully resolved to vote for Mr. Crawford, but before the box reached him, he dropped his head upon the edge of his desk and made a brief appeal to his Maker for his guidance in the matter—a practice he frequently observed on great emergencies—and when he removed his hand from his eyes he saw on the floor directly below him a ticket bearing the name of John Quincy Adams. This occurrence, at a moment of great excitement and anxiety, he regarded as an answer to his appeal, and taking up the ticket he put it in the box.¹

When the results were announced by the House tellers, Daniel Webster and John Randolph, Randolph remarked loudly, "It is impossible to win the game, gentlemen. The cards were packed." Soon both Webster and Randolph would move from the House to the Senate and the new president would have no peace from either of them.

To be indirectly elected by the House of Representatives was not the happiest way of becoming president. While Adams, of course, accepted the close decision, in private, he confided that the election had not taken place in "a manner satisfactory to pride or to just desire; not by the unequivocal suffrage of a majority of the people; with perhaps two-thirds of the whole people adverse to the actual result."²

This shaky beginning did not augur well for the new administration. When Adams soon afterwards named Speaker of the House Clay to be Secretary of State, Jackson men, who branded Clay

Footnotes at end of article.

the "Judas of the West," vowed revenge. The charge of "corrupt bargain," though repeatedly denied by Adams and Clay, irreparably hurt both men. It tarnished Adams' administration and haunted Clay all his life, following him into the Senate and crippling his many attempts to win the Presidency for himself.

In his relations with Congress, Adams was doomed from the start. Clay was of some help to him in the House, but the president seemed friendless in the Senate. Part of his problem was not of his own making but due to the changing position of the Senate. For the first time, this body was beginning to challenge the House as the principal legislative forum of the nation.

Due to increases in population and the admission of new states, the membership of the House rose to more than two hundred with the 1820 census.³ The burgeoning of membership forced the House to adopt rules that inhibited opportunities for debate and showmanship. In the Senate, however, by 1825, membership had grown to forty-eight, making it a more lively and rewarding forum for those who wanted to be seen and heard. In addition, the equality of state representation in the Senate, and the increasing concern over the importance of divisions between slave and free states, underscored by the Missouri dilemma, heightened the Senate's role as an arena where Southerners could block the actions of a hostile House majority. As Webster, on the verge of leaving the House for the Senate chamber, said of it, the Senate was "a body of equals, of men of individual honor and personal character, and of absolute independence."⁴

The Senate soon set out to prove Webster right on his point of "absolute independence." As I noted in my earlier remarks on committees, prior to 1823, Senate committees had been named by ballot, but in that year the chamber conferred the authority on its presiding officer. Thus, Vice President John C. Calhoun, in the first of what Adams construed as his many acts of treachery, assumed the right to name committees and their chairmen. So brazenly did Calhoun pack the committees with the president's foes, "Jackson men," that at last the Senate in disgust voted to strip the vice president of his appointing power, and of his supervision over the *Senate Journal*.⁵ The action was not due to the fact that the Senate loved Adams more but that, at the time, it loved Calhoun's high-handedness much less. Though Calhoun's plan backfired, it made clear to all that the supporters of Jackson, some of them in Adams' own cabinet, were conspiring to ensure that the president would serve only one term.

Perhaps no vice president of that era presided over the Senate with more dignity, poise, and courtesy than John C. Calhoun, but it is clear that no man ever more successfully tortured two presidential administrations—Adams' and Jackson's—than he did.

As early as 1826, Calhoun wrote a colleague that if he and his friends did not

openly support Adams, they would be denounced as in opposition: "We must pledge support to Mr. Adams' re-election, and recommend all of those principles for which we have ever contended." Yet, almost simultaneously, he was writing of the administration he served that, "because of the way it came to power . . . (it) must be defeated at all hazards, regardless of its measures."⁶

That Calhoun was deep in intrigue, many senators suspected. His very presence as presiding officer was proof. Since the days of Aaron Burr, vice presidents had frequently not even come to Washington during the sessions of Congress, much less making themselves outstanding personalities in the Senate chamber. Calhoun piously protested that he could not accept his pay without fulfilling the duties of his office, but his driving ambition was too well known for that explanation to satisfy. This was a man who was sowing the seeds for his political future.

In the face of an antagonistic vice president, an emergent Senate, and his own uncertain mandate, President Adams sent to Congress, in December 1825, an annual message that one historian has characterized as "suicide by manifesto." It was the violent reaction to this first presidential message that hinted at the extent of the president's troubles with the Senate. Though written with the purest of motives, it was interpreted as concealing the most devious of plans.

Adams' message stressed the importance of internal improvements, the advocacy of which, as he had said in his Inaugural Address, was to constitute the main policy of his administration.

He recommended the building of public roads and canals, establishment of a national university, and the building of an astronomical observatory—a "lighthouse of the skies." Even Henry Clay, the champion of internal improvements, shuddered. It was not the idea of improvements, however, that gave Clay pause, but in Adams' enumeration of the purposes of the improvements and the powers of Congress that he saw the gravest danger. He "approved the general principles, but scrupled a great part of the details."⁷

Indeed, it was hardly tactful of Adams to warn the senators and representatives against being "palsied by the will of our constituents," when a great many of their constituents already believed their own will had been palsied by Adams' election. Nor was it politic of the president to warn senators and representatives, some of whom had fought in the Revolution, that failure to do so as he wished amounted to "treachery to the most sacred of trusts," when many believed the most sacred of trusts consisted in curbing the powers of the federal government. Nor were many in his audience, particularly the Democrats and Revolutionary patriots, impressed by Adams' argument that the monarchical governments of Europe were far ahead of the United States in internal improvements.⁸

Reaction to Adams' message was swift and dreadful. In the Senate, the most vehement assault upon the principles it

set forth came on March 30, 1826. The speaker was John Randolph of Roanoke, and the speech was characteristic of his tirades—wandering, but brutal. Though he spent most of his political career in the House, during his two years in the Senate, Randolph left an indelible mark. Indeed, he was one of the most brilliant, deranged, arrogant, and pathetic men, all rolled into one, of his age. Like his contemporaries, who were mesmerized and terrorized by Randolph, I am fascinated still by this lean, haughty Virginian who used to stride into the old Senate chamber down the hall, trailed by his yipping hounds, flicking a riding crop against his boot with one hand, while grasping a cup of porter (beer) in the other.⁹

Randolph was born into a wealthy Virginia planter family in 1773. About to enter public life in his twenties, he was described as "a tall, gawky-looking, flaxen haired, stripling . . . with a complexion of a good parchment color, beardless chin, and as much assumed self-consequence as any two footed animal . . ." So youthful did Randolph look at twenty-six, when it was time for him to be sworn in for his first term in the House of Representatives, that Speaker Theodore Sedgwick reportedly asked him whether he was old enough to serve. "Ask my constituents," came the sarcastic reply.¹⁰

After several terms in the House, Randolph moved into the Senate in 1825 to fill a vacancy left when James Barbour became Secretary of War. By the time he arrived in the Senate, the insanity that he anticipated and dreaded was gaining on him. He had been, as he liked to say, "dying, sir, dying," for the past fifteen years, but he was still far more alive than his enemies wished. Randolph was still an electrifying speaker, and he brought to his task a great deal of genius as well as a measure of madness. His hate-filled words were punctuated by the slap of his whip on leather, and pauses to sip from the jug held by his young slave. Such arrogant behavior was guaranteed not to win friends among Northern senators when it came, as it did, from a man who owned nearly four hundred slaves.

Even if his behavior in the chamber had been less eccentric, Randolph's costumes would have brought him notice. He varied his garb from blue riding coat and buckskin breeches to a "full suit of heavy, drab-colored English broadcloth, the high rolling collar . . . almost concealing his head," and the skirts swinging about the white leather tops of his boots. Sometimes he wore a red hunting shirt, or an overcoat which dragged behind him along the carpet, and once he wore six or seven overcoats, which he peeled off, one by one, upon arrival, tossing them in a heap on the floor.¹¹

Tall and slim, from a distance, even at fifty-two Randolph appeared boyish. Some unknown disease of his youth had left him impotent, beardless, and with a voice like a shrill flute. On closer inspection, his parchment face was creased with a thousand fine wrinkles. At times he resembled an ancient mummy ani-

³Footnotes at end of article.

mated by some demon. Drink, drugs, disease had had their way with him. A friend described him as "more like a disembodied spirit than a man adequately clothed in flesh and blood." In the midst of his most demonic harangues, however, there would shine forth some passage of such terrible invective, some paragraph of such exquisite construction, or some phrase so brilliantly apt, that his colleagues were reminded that though on the brink of madness, he had not lost total control. It was for these glimpses of brilliance that visitors flocked to the galleries to hear him and senators, apprehensive lest his bitter arrows be aimed at them, remained in their seats.¹²

That Randolph was intoxicated by his own rhetoric is beyond doubt. On occasion, he would begin one of his outbursts at four in the afternoon and continue unabated until ten, the chamber gradually emptying as hunger drew off his colleagues. Vice President Calhoun alone would retain his seat, seldom even changing his position, as Randolph leaped from subject to subject. In thirty minutes he might discuss the superiority of the Church of England to the Episcopal Church of America, the "revolting racial issue" in *Othello*, the military mistakes of William the Conqueror, and the "adulterous intercourse between the Dowager Princess of Wales and the Earl of Bute." Then he might veer off course to launch a missile of evil words at a colleague. Even fellow Southerner Calhoun was not immune. In one of his outbursts Randolph addressed him as "Mr. Vice-President, and would-be Mr. President of the United States, which God in his infinite mercy prevent." Calhoun remained utterly impassive, as one newspaper noted, "without once noticing the indecorum to himself or others."¹³ Randolph was a tormented man whom neither his friends nor his enemies understood—so clever, so cruel, so bewildered. He lived his whole life in the flickering light of what he conceived to be the truth. And it was Randolph's perception of the truth that led to his vicious attack on Adams in the Senate.¹⁴

For Randolph, truth was the Old Republicanism of his youth. But his was the Old Republicanism filtered through clouded eyes. He passionately claimed allegiance to the Jeffersonian tenets of states' rights, human liberty, and resistance to centralized power. Naturally, Adams' first annual message struck him as a mass of dangerous and threatening proposals. But Randolph was also motivated to speak out on the Senate floor by his hatred of the president which exceeded even his distaste for the president's father whom he had battled in his youth. "The cub," he said, "is a greater bear than the old one."¹⁵ Randolph also despised Henry Clay, whom he regarded, with loathing, as an ex-Virginian, a slave-holding Kentuckian who had become a renegade from the one true way of life by engineering the Missouri Compromise, and giving rise to the so-called "American System." Randolph had never forgiven Clay for eclipsing his charismatic dominance over the House. He had

been plotting his revenge on both Adams and Clay, and, in March 1826, he seized the moment to strike.

The specific issue between the president and the Senate which presented Randolph with the opportunity to vent his spleen was United States' participation in the Panama Congress of South American states, called with the idea of forming a loose confederacy for military and commercial purposes. Clay had secured an invitation to the Panama Congress for the United States, and Adams had unwisely accepted without consulting the Senate. Members of the Senate were furious. Van Buren opened the battle by offering resolutions designed to annoy Adams by requesting the president to tell the senators whether or not he had truly sent them all the papers involved in the matter.¹⁶ Van Buren had judged Adams well. The resolution goaded Adams into a tactless reply in which he questioned the honesty of the senators, angering them further.¹⁷

Following Van Buren, Senator John Branch of North Carolina attacked the president's assertion that he had the right to appoint ministers independently of the Senate. In his speech, Branch launched the first direct assault on Adams:

He came into office in opposition to three-fourths of the American people, in opposition to seventeen or eighteen states out of the twenty-four. He came in by the prostration of our dearest principles. He came in by the total disregard of the right of instruction, the basis of a Republic. He came in, sir, in opposition, not only to the sovereign will of the people, but he overcame the most formidable of all difficulties: He came in in opposition to the will of the Representatives too.¹⁸

It was now Randolph's turn. He rose to his feet on March 30 and, his voice growing shriller and shriller, began the speech that goes on for eight tightly-packed pages in the *Register of Debates*. At first he rambled from topic to topic—the administration's internal improvements program was an attempt to buy Congress with its own money—Now that Judas had received his thirty pieces of silver, let him buy a potter's field with them in which to inter the Constitution—Old President Adams was the Apostle of Monarchy. But after what must have been an hour of general invective, Randolph began to home in on his victims, Adams and Clay.

As the other senators listened in horror, Randolph rose to new heights of maliciousness and openly compared the union between Adams and Clay to that of Bliful and Black George. Anyone familiar with Henry Fielding's novel, *Tom Jones* (and most of Randolph's contemporaries certainly were), knows how disgusting are the characters of Bliful, the canting hypocrite, and Black George, the blackguardly gamekeeper. The senators were stunned. Perhaps Randolph had not meant so vile a slander and would recant. But, no. Toward the end of the harangue, he not only uttered the same insult, but embroidered upon it. Claiming that he had been trying to save the last shreds of Jefferson's dream, Randolph shouted:

I was defeated, horse, foot and dragoons—cut up—and clean broke down—by the coalition of Bliful and Black George—by the combination, unheard of till then, of the puritan and the black-leg.¹⁹

President Adams was outraged at Randolph but even more angry with his own vice president, Calhoun, who impassively presided over the Senate during Randolph's outburst, oblivious to the many appeals to call Randolph to order. Not only had Calhoun declined to call Randolph to order; he had exhibited "the most perfect indifference to whatever was said." Masking his enjoyment at the Virginian's attack on the administration, on this, as on earlier occasions, Calhoun gravely insisted that, since he was not a member of the Senate but merely its presiding officer, he had no wish to usurp its power and interfere with debate. In 1828, the Senate adopted the forerunner of our Rule XIX governing the propriety of the members' remarks so that the presiding officer, or a member, could call to order any other member casting aspersions against another senator, a member of the House, or a state, but the right to criticize the executive was carefully maintained.²⁰

On May 1, the pro-Adams Washington *National Journal* carried an article bitterly attacking the vice president for not exercising a power clearly his and charging Calhoun had not done so because he was "the residuary legatee of General Jackson's pretensions to the Presidency." Signed "Patrick Henry," the style suggested that its author was the intelligent himself. On May 20, the rival *Intelligencer* carried a response signed "Onslow." The trenchant style clearly identified it as the work of Calhoun. For the next six months, the public was treated to the spectacle of the president and his vice president slugging it out in the pages of the Washington newspapers.²¹

Randolph's insults were too much for Clay to bear in silence. He challenged Randolph to a duel, and Randolph, waiving his privilege not to be held responsible for words uttered in congressional debate, accepted. Neither man was an expert at handling arms, but nonetheless, the senator and the secretary of state met on the afternoon of April 8, 1826, in a clearing on the Virginia side of the Potomac, just above Little Falls Bridge. If he were to die, Randolph wanted to do so on the soil of his beloved native state. Randolph arrived wearing a dramatic white, flowing flannel wrapper.

In the first exchange of shots, both men missed. Senator Thomas Hart Benton of Missouri, himself no stranger to the dueling ground, had come as a spectator and conciliator and rushed from the woods to demand that the duel should cease. Clay brushed him aside. Randolph agreed to shoot again, but whispered to Benton that he did not intend to return Clay's fire. He calmly stood still while Clay fired a bullet that went through the hem of the white flannel overcoat without hurting him. Randolph then fired into the air, tossed his pistol aside, held out his hand to Clay and said, "You owe me a coat, Mr. Clay." Said a much relieved Clay, "I am glad that the debt is no greater."²²

Footnotes at end of article.

Randolph's stay in the Senate was brief. The Virginia state legislature refused to return him in 1827, putting John Tyler in his place. His own district, however, immediately returned Randolph to the House where he continued his anti-administration maneuvers. After a brief and disastrous stint as Minister to Russia during the Jackson administration, Randolph broke down entirely in 1831. Struggling with total insanity, he used opium and drank excessively. He died in Philadelphia in 1833, while awaiting a ship to England. He was buried at his estate, "Roanoke," as he had ordered, facing west in order to keep his eye on Henry Clay.

In the turmoil that followed Randolph's March 30 speech, Adams' Panama Mission took a back seat. While the Senate debated the executive's power to appoint ministers, the House came out in support of the mission. Ironically, though the Senate yielded, nothing ever came of the enterprise. Owing to the delay, the Panama Congress, after a poorly attended session, adjourned before the representatives of the United States could arrive on the scene.²³

Though few spoke as openly or as harshly as John Randolph, many senators in the Nineteenth Congress opposed the president and his policies. The irony was that the president, the senators, and the representatives were, in 1825, all nominally members of the same party. Though the unity this single party designation implies was chimerical, they were all ostensibly National Republicans.

When Adams took the oath of office on March 4, 1825, he had pleaded for complete and final political harmony. Few of those listening, however, really believed that the party system could or should be eliminated. Indeed, by the time Randolph spoke out in the spring of 1826, the bitterness lingering from the presidential election, the rivalries of the defeated candidates and their partisans, sectional interests, conflicting political theories, and economic changes all combined to defeat Adams' pious wish.

Adams viewed it as a Providential sign when, in one of the supreme coincidences in American history, former presidents Thomas Jefferson and John Adams both died on July 4, 1826, the fiftieth anniversary of the Declaration of Independence, which each had signed. If these two long-time foes could become reconciled through a warm correspondence in their old age, certainly the next generation could iron out their differences. But, as the president stood beside his father's grave in Quincy, there were clear signs that his administration was in danger of collapsing. As the fall elections approached in 1826, anyone looking at the Senate could have easily perceived two political groupings. On the one hand, there were the National Republicans, the followers of Adams, Clay, and Webster, and on the other, the Opposition, gathered under the banner of Jackson, and tentatively, Calhoun, and including Senators Van Buren, John Eaton of Tennessee, and Benton, which would eventually become the Democratic party.

Footnotes at end of article.

Within these opposing camps, there were some surprising and uneasy alliances. As historian Glyndon Van Deusen notes:

Federalists, under the leadership of swarthy Daniel Webster, already the servant of the vested interests in Massachusetts, and Jeffersonian Democrats of the Clay stripe found themselves side by side in the National Republican ranks. Many high tariff men looked to Clay for leadership. A strong Western element championed internal improvements at national expense. The party was conservative, by and large, favored a vigorous national government, and sought to establish its predominance by an alliance of East and West.

The Opposition was decidedly heterogeneous. There were Southerners, hating the tariff and fearing that a strong central government would endanger slavery; Northern high tariff men, who distrusted Adams or disliked Clay; states' rights advocates and strict constructionists, moved to wrath by Adams' woefully inept championship of a vast system of internal improvements at national expense; democrats and demagogues who championed the downtrodden, demanded a government free from corruption, and cried out against aristocratical successions. The Opposition had a liberal tint, but the group, as a whole, required careful handling.²⁴

Obviously Randolph was a member of the Opposition. The fact that the Virginia legislature did not return him to the Senate did not obscure the fact that the winds of change had begun to blow hard and much of the South was rapidly shifting to the hard anti-national position he and other Opposition leaders espoused. These were nebulous times, when new coalitions, one of which would emerge as a major national party, were forming on every side. Historian George Dangerfield has suggested that, while Monroe's administrations have been labeled "The Era of Good Feelings," Adams' unstable times might well be called "The Era of Suspense."²⁵

Martin Van Buren was one of the leading figures of this political ferment. Short, plump, beautifully dressed, he was a poised and witty companion. One of the most astute political managers in the country, he was determined to ruin his enemy Adams. Van Buren was a deadly adversary, who assassinated quietly and with a smile. In a delightfully apt phrase, John Randolph said of Van Buren that "he rowed to his object with muffled oars."²⁶ Calhoun, about to become one of Van Buren's victims, did not realize the treachery until after the deed was done.

Van Buren greeted enemies with a smile, suffered defeat gracefully, and played his cards close to his vest. He relished his reputation as a wily fox and gleefully told this story against himself:

"Mr. Knower, Mr. Knower," an Albany wool merchant once said to a friend at the conclusion of one of Van Buren's tariff speeches, "that was a very able speech." "Very able," replied Mr. Knower. There was a pause. "Mr. Knower," said the wool merchant, "on what side of the tariff question was it?"²⁷

Throughout 1826, Van Buren and other members of the Opposition worked feverishly to increase their ranks in Congress in the autumn elections. While the fall results were difficult to decipher, when the Twentieth Congress convened in De-

ember 1827, it was clear that the Opposition had gained strength. In the House, the pro-administration Speaker, John Taylor of New York, was replaced by the hostile Andrew Stevenson of Virginia, who gave all the important chairmanships to Jackson men.

In the Senate, John Tyler of Virginia made his debut, with the expectation that he would continue, with more discretion, Randolph's attacks on the administration. Opposition leaders were extremely annoyed when Clay published an old letter from Tyler congratulating him on his vote for Adams. The Opposition carried the day, however, when the Senate chose for its printer the ebullient Duff Green, whose Washington *United States Telegraph* was violently abusive of Adams. For the first time in their history, both the House and the Senate had majorities hostile to an administration only two years old.

Nearly every measure that came up in the Twentieth Congress was debated and voted on from the point of view of its likely effect on the 1828 presidential election. National Republicans sought to discredit Jackson while the Opposition sought to destroy Adams. A resolution was introduced by Jackson men to have one of the large, empty panels in the rotunda of this building filled with a painting of the Battle of New Orleans. Adams' partisans defeated that move. Then the president's friends offered a resolution calling for an inquiry into the court martial and execution of six Tennessee mutineers by Jackson during the War of 1812. Handbills were scattered across the country bearing six black coffins and this verse:

Oh! Did you hear the plaintive cry
Borne on the southern breeze?
Saw you John Harris earnest pray
For mercy, on his knees?

The resulting House committee report exonerated the general.²⁸

Jackson's supporters then took the offensive, calling for an investigation of how the president spent the government's money. Among the documents presented was a White House inventory listing a \$61.00 billiard table and a chess set costing \$23.00. Cried one Southern representative, "Is it possible, Mr. Chairman, to believe that it ever was intended by Congress that the public money should be applied to the purchase of gaming tables and gambling furniture? And if it is right to purchase billiard tables and chessmen, why not, also, faro banks, playing cards, race horses, and every other article necessary to complete a system of gambling at the President's palace . . . ?"²⁹ As a matter of fact, the inventory was incorrect. The chessmen had been purchased with private money and the billiard table had never been bought at all, but this information did not serve the Opposition's purposes and was squelched.

The most important item before the preoccupied Twentieth Congress was the tariff question. Quickly dubbed throughout the South the "Tariff of Abominations," it mirrored the political turmoil of the nation. Like all tariffs, the tariff of 1828 was a very complicated affair. Historians still debate the true intentions

of the principals involved. What is clear is that, by the time the tariff finally became law, the South was threatening to secede from the Union. John C. Calhoun had been maneuvered out of second place in the coalescing Democratic party, and, even though things had not worked out quite as he planned, Martin Van Buren had taken Calhoun's place.

Both Calhoun and Van Buren would have liked to ignore the tariff question but, by 1827, this was impossible. High-tariff propagandists had met with success in stirring up pro-tariff sentiment among farmers everywhere except in the South and Southwest. Merchants and bankers in the Northeast, particularly Massachusetts, had been converted to the cause, as was evident when Daniel Webster, still in the House, drove through a bill that gave woolen manufacturers all the protection they asked for. This woolens bill put both Van Buren and Calhoun in a terrible predicament.

Van Buren had decided that opposition to Adams, represented by Webster in this case, must be founded upon "the most natural and beneficial combination . . . that between the planters of the South and the plain republicans of the North."²⁰ Unfortunately for him, on this issue, planters of the South were opposed to protective tariffs while those plain republican farmers of Van Buren's own New York state favored them. What was Van Buren to do? He solved the problem by not voting at all. Long afterwards, he lamely explained that he was absent from his seat because he had "promised to accompany a friend on a visit to the Congressional Cemetery."²¹

More likely, it was his own political burial Van Buren feared. Other senators also found it convenient to disappear. When the woolens bill came up for a vote on February 28, 1827, the result was a 20-20 tie.²² So the issue was placed squarely in the lap of Vice President Calhoun. At one point, Calhoun had been a mild advocate of protectionist tariffs, going along with Clay and other nationalists because of the plausible arguments that South Carolina and other southern states might become industrialized. But few plants had been built in the South, and now tariffs and internal improvements, most of which linked the North and West, encouraging growth in those sections rather than the South, worked to the disadvantage of the Southern states.

Calhoun was definitely caught in an impossible situation—what we would call today a Catch-22 situation. A tie-breaking vote, in either direction, was bound to hurt him as a national figure. His position in Jackson's emerging Democratic party was still insecure—especially since he had aroused the jealousy of Van Buren. Certainly, the vice president must have wished he could have gone sight-seeing that day, too. But Calhoun had to make a decision. He could not vote "maybe." He had to vote "aye" or he had to vote "no," and he did.

He voted no and killed the woolens bill.²³

Now the maneuvering began in earnest; Jackson men plotting against the president, Van Buren plotting

against Calhoun. The defeat of the woolens bill roused a northern demand for a tariff that would protect all sorts of different products. And such a bill was produced in the Twentieth Congress, the Congress filled with a new influx of Jackson supporters. In the Senate, where Jackson was stronger than ever, Van Buren, Benton, and Eaton of Tennessee were among those who watched out for the General's interests, and saw in the tariff a way to embarrass President Adams.

Van Buren, however, was playing two games: trying to win support for Jackson and discredit Calhoun at the same time. First, he traveled to the South, trying to bring the Crawford Radicals into Jackson's fold. He did so by promising Crawford, who was slowly dying, that he would do everything in his power to ruin Calhoun, Crawford's great bugbear. Such a maneuver would be tricky. Calhoun was still a Jackson man, and Van Buren was far too shrewd to openly break with him at this point. But Van Buren also knew that he could never rise in the new Democratic party if Calhoun were to remain Jackson's heir-apparent. In the tariff, Van Buren saw a way to force Calhoun to cause his own fall from grace.²⁴

The first draft of the new tariff bill of 1828 was hammered out in the House Committee on Manufacturers in December 1827. The smiling and cordial Van Buren was repeatedly seen "lurking" outside the committee room. He was in the habit, observed the *Massachusetts Journal*, "of calling out the Jackson members of the committee daily, and many times a day, to hold talks with them; and it is presumed that nothing important was done or has been reported without his knowledge and consent." The pro-Adams *National Journal* confirmed the report and sarcastically added: "We believe that every thing has been arranged under the superintendence of Mr. Van Buren, who, from managing the Albany legislature, has kindly taken upon himself the management of Congress, so far as relates to the tariff . . ." Duff Green, editor of the friendly *United States Telegraph*, and the official printer to the Senate, attempted to refute these claims, assuring his readers that the senator from New York "did once . . . call at the committee room, and that was done upon the request of his friend, Mr. McLane of Delaware." Green's protest notwithstanding, Van Buren was responsible for the tariff bill as eventually reported.²⁵

The bill first went to the Senate Committee on Manufactures, and on May 5 was reported out. Historians disagree over just what the strategy of the Jacksonians was at this point. Many argue that they decided to play a devious and dangerous game. By joining with the Adams protectionists and loading the bill with so many outrageously high duties, they were sure Congress would kill the bill and they could then blame the Adams forces for its defeat. The intrigue bore all the marks of the work of Van Buren and his partner in the House, New York Representative Silas Wright. As the plotters would soon find out, it was one thing to devise a strategy for

defeating the tariff, and another to actually carry it off.²⁶

Throughout the spring of 1828, debate on the tariff filled the House and Senate. Much of it was uninspired. Representative John Taylor complained that "day after day passed without any sensible advance in the public business. One dull prosing speech after another and arguments for the fiftieth time repeated are hashed up and dished in new covers."²⁷ And one can picture the House as it looked to Taylor, with, as historian Arthur Schlesinger, Jr. described it, members "lolling back in armchairs, laughing, coughing, spitting, rattling newspapers, while some poor speaker tried to talk about the din."²⁸

Things have not changed much.

Through the din, Jacksonians obediently set about antagonizing the northern manufacturers with a variety of bedeviling amendments increasing duties on pig iron, flax, hemp, and so forth. Everyone supposed that the New England Senators would join with the Southern anti-protectionists to kill the measure. Daniel Webster, who had moved from the House to the Senate in the autumn elections, emerged, to the consternation of many, as one of the leaders of the pro-tariff forces. On May 9, he offered an extraordinary spectacle. He stood in front of his colleagues to explain why he was about to repudiate all the free-trade arguments he had made in the House in 1824. He was not eloquent, not the "great cannon loaded to the lips," but he was very honest. He offered no moral or intellectual justifications for the switch.

How strange to the ear of some of us, following the vote on AWACS.

He changed his mind, he said, simply because New England, his constituency, had accepted the protective system as the established policy of the government, and after 1824, had built up her manufacturing enterprises on that basis. This candid avowal of allegiance to a section was one the public would not forget and Webster would later regret.²⁹

Vice President Calhoun presided over the tariff debates with an easy mind. He thought he knew just what Van Buren's plot was and he approved. He approved. Suddenly, he realized that things were going very much awry. Years later, the betrayal still rankled and he recalled:

Relying on the assurance on which our friends acted in the House, we anticipated with confidence and joy that the bill would be defeated and the whole system overthrown by the shock. Our hopes were soon blasted. A certain individual, then a Senator, but recently elected to the highest office in the Union, was observed to assume a mysterious air in relation to the bill, very little in accordance with what, there was every reason to believe, would have been his course.³⁰

That things went awry is clear, but historians still debate whether or not Van Buren, that "certain individual," was actually in control of the shift or whether he was taken by surprise and swept along with the tide just as Calhoun was. What did happen is that Jacksonian senators, while offering amendments in jest to sink the bill, seemed to be seized with the realization that it might just pass and then their

Footnotes at end of article.

own constituents might not be protected. So we have the spectacle of Thomas Hart Benton mockingly asking for a duty on indigo, but very seriously requesting a duty on furs and a duty on lead for Missourians. Suddenly, Senator Mahlon Dickerson of New Jersey, who had discovered that a solitary vermicelli factory did business in his State, wanted a fifty percent duty on imported vermicelli. The jest had turned serious. Van Buren could no longer control the forces he had set loose.

Though the bill was a bad one for all concerned, many felt it was better than no bill at all. To the astonishment of Jackson's supporters, the tariff bill passed the House and Senate and became law on May 19, 1828. Senator Littleton Tazewell of Virginia was among those who felt tricked. He cornered Van Buren and said, "Sir, you have deceived me once; that was your fault; but if you deceive me again the fault will be mine."⁴¹

The "Tariff of Abominations" was denounced on both sides. Protectionist journals like *Niles Register* repudiated it as did anti-protectionist organs such as *Richmond Enquirer*. The legislatures of South Carolina, Georgia, Mississippi, and Virginia condemned it. In Washington, the South Carolina delegation met at the home of Senator Robert Hayne to consider withdrawal from the Congress. After violent argument, it was decided to do nothing extreme until after the upcoming presidential election. Calhoun, now fully identified with southern interests, was not present at these meetings, but he influenced them. He counseled restraint. He could not, however, restrain himself from writing an anonymous and widely-circulated essay expounding the doctrine of the right of a state to nullify what it considered an unconstitutional law. The groundwork for the Nullification crisis, which would haunt the Twenty-first Congress, was laid.

In addition to the major issues of the day such as the tariff, the Senate also considered a wide variety of other more routine matters during these four years. A glance at the index to the *Register of Debates* reveals a fascinating array of resolutions introduced but not passed—nothing new to the Senate—burning issues that quickly lost their fire, familiar-sounding debates, information about incidents in this building, and the revision of the Senate rules that continue to guide us today. These events and issues help give us a sense of the day-to-day life in the early nineteenth century Senate.

No sooner had the Nineteenth Congress convened in December 1825, than Thomas Hart Benton presented a resolution "to inquire into the expediency of amending the Constitution of the United States, so as to provide for the election of the President and Vice President by a direct vote of the People."⁴² Senator Robert Hayne applauded Benton and went even further, suggesting that the election of the president be removed from the intervention of the House. Senators Nathaniel Macon of North Carolina and Mahlon Dickerson

of New Jersey joined Benton and Hayne in pushing these measures.

The motives behind these resolutions were quite transparent, following as they did so closely after the 1824 elections. Their promoters were all ardent Jackson men; their opponents, like Senator John Holmes of Maine, Adams' partisans. It is doubtful that the Opposition expected these resolutions to bear fruit, and in this they were realistic, but they wanted to make it clear that they felt that Jackson had been robbed of his victory, winning the popular vote only to have the House hand the presidency to Adams. What is most interesting about these debates, however, is not that nothing came of them, but how current they sound today. Benton had encouraging words of support for those who continue to seek constructive constitutional change. He said: "No great reform is carried suddenly. It requires years of persevering exertion to produce the unanimity of opinion which is necessary to a great popular reformation; but because it is difficult, it is not impossible."⁴³

Another unsuccessful resolution, introduced by Senator Thomas Cobb of Georgia, was even more pointed. Cobb suggested an amendment to the Constitution which would prohibit the appointment of any senator or representative "to any office of honor, trust, or profit, under the authority of the United States," during the period for which they were elected.⁴⁴ Its intent, said Benton, was to cut off the possibility for a member to receive an appointment from "a president to whom he might have lent a subservient vote."⁴⁵ Benton had a specific member in mind. Henry Clay, the alleged co-conspirator in the "Corrupt Bargain," had resigned from the House to become Adams' Secretary of State.

And just in case the point of both of these resolutions was lost on the pro-administration senators, the Opposition introduced a third resolution, on December 19, to prohibit any president from serving more than two terms. Though they expected to defeat Adams in 1828, the Opposition obviously did not want to take the chance that the presidency would be "stolen" a third time.⁴⁶

During this period, the Senate also re-codified the rules set down in 1820. Among the significant changes was the dividing of the Committee on Commerce and Manufactures into panels for each of its named subjects and the creation of committees on agriculture and private land claims.⁴⁷

As the eye runs down the index to the Senate debates for this period, the issues stand out that set the followers of Jackson apart from those of Adams. Issues that would increase in importance as the years went by. Debates on bankruptcy, a theme dear to the hearts of anti-big-money Jacksonians, public lands, the pet of Benton and the westerners, and internal improvements like the Baltimore and Ohio Railroad and the Cumberland Road, extolled by adherents to Clay's "American System," fill the pages of these dusty volumes.

Just as the eye begins to weary of the columns of fine, faded print, an item will

leap off the page and demand investigation. Such an entry appears under "O" in 1828: "Outrages in the Capitol, two resolutions laid on the table in relation to the assault made by Russell Jarvis on the president's personal secretary, and that of Duff Green on Edward Vernon Sparhawk, one of the reporters."⁴⁸ Now, I know senators sometimes have their differences with the press, but they seldom come to actual blows! Who were these men, Messrs. Green, Sparhawk, Jarvis, and the president's secretary, and what provoked the "outrages"?

Let us begin with the case of Jarvis, a journalist, and the president's private secretary, who also happened to be his son, John Adams. In April 1828, Mr. Jarvis, responding to a rude remark that young Adams had directed at him several days earlier at the White House, assaulted Adams as he was walking through the Rotunda from the House to the Senate on official business. The president was outraged, and he sent a message to both the Senate and the House asking for redress. Unfortunately, his message did not spell out the particulars of the case so we must rely on Jarvis' own communication to the Senate, which was printed in full in *Niles' Register*, a nationally-circulated Baltimore newspaper. Jarvis' letter is marvelous in its detail and I would like to read from it:

... while he (Adams) was in the rotunda of the Capitol, I accosted him and asked if he had given his final answer to my note; for I still hoped that he might be induced to offer some apology or explanation. On saying that his final answer had been given, I was excited by his continued refusal, and by a recollection of the offense, to commit an assault upon his person, which consisted merely in pulling his nose and slapping one side of his face, with my open hand. In doing this I disclaim any intention of inflicting upon him any bodily injury; for I was totally unarmed, and assailed him merely in the manner above described, while he was provided with a stout cane. I also disclaim any intention of way-laying him, for our meeting at the Capitol was accidental. More especially do I disclaim any intention of infringing on the rights, or assailing the dignity of the president of the United States, of either house of Congress, or of any public functionary, or any intention of obstructing an officer of the general government in the discharge of his official duties.—When I accosted Mr. John Adams in the rotunda, I supposed he had discharged his official duties, and was on his way from the Capitol. I was not aware of his being charged with a message to the Senate, or of his being on his way to the chamber of that body. I viewed the rotunda as common ground, as a public passage, not particularly within the jurisdiction of either house of Congress, and differing in no respect, so far as it related to the rights or dignity of any public functionary, from any public street or highway. I know that an assault upon an individual within the public peace, is a violation of the laws; and I regret that any indignity should have been offered to a party of ladies under my protection, and in a place where they expected, at least, the ordinary forms of civility, whereby I was impelled to an offense against the civil authority, which I hope, that I may be always disposed to maintain, as a sober and peaceful citizen. But, if either house of Congress shall consider that I have, unintentionally, or inadvertently, violated its rights or dignity, or those of the executive, by resorting within the walls of the Capitol, a grievous insult (earlier at the White House) to the ladies of my family,

Footnotes at end of article.

and which insult I chose to consider entirely of a private character, I am ready and disposed to offer any atonement that shall be due to such body.⁴⁹

The upshot of the incident was that both the president's message and Jarvis' epistle were laid on the table to quietly slip into history.⁵⁰

The case of Duff Green and Edward Sparhawk was equally dramatic and suffered the same fate in the Senate. Green, as I have already noted, was the editor of the rabidly pro-Jackson Washington *United States Telegraph*, a rising star in the emerging Democratic party, and printer to the Senate. Sparhawk was apparently a reporter for the *New York American*. On January 25, 1828, the two men came to blows in a room set aside for the Senate Committee of Claims. On January 29, Sparhawk presented the Senate with a memorial, accompanied with affidavits, which "humbly sheweth, that, having been subjected to insult and violence in the roof of the Committee of Claims of the Senate of the United States, from a person called Duff Green, an officer of the Senate . . . ; and having been threatened by said Green with further violence, in case your memorialist should ever write a line about him"—considering that said violence was not, in any manner provoked by your memorialist, and that it was committed within a room devoted to the use of the Senate; Therefore, your memorialist humbly prays that such notice may be taken of this matter as may, in the opinion of your honorable body, comport with its dignity, and extend protection to individuals while within the precincts of the Senate.⁵¹

The next day, Green begged to present his side of the story, and his is the only side that was printed. According to Green, Sparhawk was the author of an anonymous article which charged that Green had grossly and intentionally misrepresented remarks by John Randolph in an article in the *Telegraph*. Green, finding out that Sparhawk was the author, "felt as every honorable man would feel in his situation, as the editor of a public journal of extensive circulation." He accosted Sparhawk and demanded to know if he was, indeed, the author of the piece. According to Green's account, written in the third person, "Not receiving a satisfactory answer, he proceeded to assault Mr. Sparhawk, having no intention to offer personal injury to him, his sole object being, not to hurt, but to disgrace him." Green contended he had no intention of dishonoring the Senate, for which he had the profoundest respect, but only to chastise one who had sullied a senator's name. Sparhawk had been, Green concluded, a "profligate instrument of falsifying the reports of the proceedings of the coordinate branch of Congress," and he had taken it into his own hands to right the situation.⁵²

Despite Green's pains on its behalf (and no doubt the pain of Sparhawk!), the Senate did not express its gratitude. Then again, neither did it condemn him. As with the Jarvis-Adams affair, this one was laid on the table and relegated to obscurity.

During the course of this examination of the years 1825 to 1828, I have mentioned the rise of the Democratic party.

Footnotes at end of article.

I would like to end my remarks, then, with a brief look at the origins of that party. To any of my colleagues who would like to pursue this absorbing topic further, I can heartily recommend Robert Remini's useful *Martin Van Buren and the Democratic Party* and Michael Holt's chapter on "The Democratic Party," in the series *History of the United States Political Parties*.⁵³

We can trace the beginning of the Democratic party back to the early 1820's, when, as I noted earlier, the first American party system of Jeffersonian Republicans and Federalists collapsed. In its wake, during the "Era of Good Feelings," everyone was ostensibly a National Republican. This inclusiveness, however, diluted the party's ideology. To the dismay of purists like Randolph, the Old Republicanism of states' rights, strict construction, and the small government principles of the Jeffersonians, no longer prevailed. They were pushed aside by nationalistic programs advocated by younger men like Clay. These tensions were exacerbated by two events. The depression that followed the Panic of 1819 ignited working-class and agrarian hostility to paper money and to the private banking system that seemed to favor the few at the expense of the many and that caused economic fluctuations catastrophic to the little man. Secondly, the angry attacks on slavery during the Missouri debates had opened up an ominous division between the North and South.

Many Old Republicans blamed the potential sectional realignment on the fact that there was only one party, whose discipline and adherence to principle had collapsed because of lack of competition. They were certain that new men like Clay and Calhoun had corrupted the Republican party with nationalism and jettisoned the pure principles of strict construction, laissez faire, and states' rights.

The Old Republicans wanted to reconstruct their national party, to restore it to its first principles, and to drive all those nationalistic backers of the American System from their midst. They saw their chance in the aftermath of the 1824 election, stolen, in their opinion, by the evil forces of John Quincy Adams from their own virtuous candidate, Andrew Jackson. It was clear that the election in 1828 would probably come down to these two candidates once again, and this time, the opposition would be ready.⁵⁴

The opposition was led by Senator Van Buren, and before he left the Senate in 1828 to return to New York to rally his "Bucktails" and become governor of the state, he delivered one last important speech on the Senate floor on February 12. His remarks on that particular occasion reinforced his commitment to Jeffersonian concepts. What Van Buren presents us in that speech is the creed of the Jacksonians, soon to be called "Democrats." The dogma of states' rights was the central theme. The essential conflict between Hamilton and Jefferson, at the time of the Republic's founding, was the identical struggle going on in 1828 between the friends of

Jackson and those of Adams. The members of the Democratic party—the true descendants of the Patriots of 1776—in Van Buren's view, were mindful of the causes and the history of this long-standing philosophical dispute. They were, therefore, averse to a national government that sought to enlarge its area of activity beyond the fixed boundaries set by the Constitution. Only through the continued existence of powerful states, he averred, could the liberties of the people be protected. Here, in a nutshell, were the principles behind the Democratic party.⁵⁵

Riding and channeling the wave of resentment against the president and the enthusiasm for the hero of New Orleans, supremely talented Jacksonian managers, such as Van Buren and Senator Eaton, organized the Democratic party from the top down. Michael Holt explains their technique:

Central committees were established in Nashville by Jackson's friends and in Washington by Van Buren, Calhoun, and other Jackson cronies. These committees, and Jackson himself, corresponded voluminously with state politicians urging them to build state organizations which in turn established Jackson clubs or committees in each county and most localities. Once completed, the Democratic organization consisted of a multitude of conventions and committees built in pyramid fashion from the locality to the county to the state to the central national committees. The national committee and Jacksonian congressmen disseminated propaganda to the local committees to keep Old Hickory in the public eye. A politician of superb instincts, Jackson himself directed much of this propaganda, making sure that the public remembered he was the victim of a cynical and corrupt bargain. The politicians in Washington also raised money to support an extensive chain of newspapers they had established across the country, and these sheets brought the Jacksonian gospel to the people.⁵⁶

The campaign of 1823 was one of personalities. Such campaigns are bound to degenerate into abuse, but the name-calling of the 1823 campaign has rarely been equalled. To call Jackson a gambler, a drunkard, and a duelist, and Adams a monarchist, a gourmandizer, and a spendthrift was one thing. But in 1827, pro-Adams newspapers began to print stories accusing Jackson of having knowingly lived in adultery with Rachel Jackson before she was divorced from her first husband. That one of the happiest and loving of marriages in the United States had been dragged into the campaign was proof of the depth to which the partisans could sink. Slander was infectious.

What a time for NPAC to have flourished. Duff Green was soon printing in his *United States Telegraph* columns a nonsensical story about premarital relations between President and Mrs. Adams. Green wrote to his hero, Jackson, "Let Mrs. Jackson rejoice, her vindication is complete." How one reputation could be vindicated by the blackening of another apparently did not disturb him.⁵⁷

The feel of a Jackson victory, a Democratic victory, was in the air in the fall of 1828. When it came in the winter, it was a substantial one; 178 electoral votes to 83 for Adams. It was a great triumph

for the "common man," particularly in the West and South, where Jackson was lionized. Under the vastly liberalized franchise laws, large numbers of Americans voted who had never done so before. The popular vote jumped from 400,000 in 1824 to more than 1.1 million in 1828 (647,276 for Jackson and 508,604 for Adams). In only two of the twenty-four states, Delaware and South Carolina, did the legislature still choose the electors. In the rest, the people now had the power.⁵⁵

The "Era of Suspense" was over. The political turmoil of the preceding years was temporarily resolved. The forces of discontent had coalesced long enough to bring about a political revolution under the banner of the new Democratic party. The coalition that elected the hero in 1828 was too broad and heterogeneous to be stable. For example, Jackson's overwhelming popularity in the South and West camouflaged deep differences among his followers, some of which would cause defections once the northern, Van Buren, became his successor. In 1829, there was a Jackson coalition. At the end of his administration in 1837 there would be a smaller, but more homogeneous and unified Democratic party.⁵⁶

None of this, however, mattered to the followers of Jackson in March 1829. On March 4, all Washington saw the real contemporary meaning of the word "Democrat" as masses of farming, frontier, and working-class families swarmed into the capital to hail "Old Hickory," the symbol of a new democracy that had brought the common people of America to political power. Adams had decided that it would be unbecoming for him to attend the inauguration of a man who for three years had accused him of bargain and corruption and had quietly ridden out of town the day before. He was hardly missed by the cheering crowds massed everywhere in the city to welcome "their" president. As the delirious multitude flooded the White House, turning over buckets of punch, trampling chairs to sawdust, sober men like Daniel Webster reflected, "People have come five hundred miles to see General Jackson, and they really seem to think that the country had been rescued from some dreadful danger." Indeed they believed just that. Only time would tell whether or not they were right. What was abundantly clear, from the perspective of the Senate chamber, however, was that the Age of Jackson had arrived.

FOOTNOTES TO "ERA OF SUSPENSE": 1825-1828

¹ George Dangerfield. *The Era of Good Feelings*. (New York: Harcourt, Brace and Company, 1952), pp. 341-43; Martin van Buren.

The Autobiography of Martin Van Buren. John Fitzpatrick, ed. (Washington, DC: American Historical Association, Annual Report of the year 1919, 1920).

² James Richardson. *Compilation of the Messages and Papers of the Presidents* (Washington, DC: Government Printing Office, 1907), II, pp. 292-93.

³ *Historical Statistics of the United States* (Washington: Bureau of the Census, 1975), Vol. II, p. 1085.

⁴ Alvin Joseph. *The Congress of the United States* (New York: American Heritage Publishing Company, 1975), p. 168.

⁵ *Register of Debates*, 20th Congress, 1st sess., 278-341.

⁶ Margaret Coit. *John C. Calhoun* (Boston: Houghton Mifflin Company, 1950), p. 160.

⁷ John Quincy Adams. *Memoirs*. Charles Francis Adams, ed. (Philadelphia: Lippincott and Company, 1874-1877), Vol. VII, p. 63.

⁸ Richardson, II, pp. 315-16; Dangerfield, p. 349.

⁹ Dangerfield, p. 354.

¹⁰ Robert Davidoff. *The Education of John Randolph* (New York: W. W. Norton and Company, 1979), p. 25.

¹¹ Ben Perley Poore. *Reminiscences of Sixty Years in the National Metropolis* (Philadelphia: Hubbard Brothers, 1886), I, p. 69; Josiah Quincy. *Figures of the Past* (Boston: Little, Brown and Company, 1926), p. 213.

¹² Quincy, pp. 210-12.

¹³ Coit, p. 162-63.

¹⁴ Among the many biographies of John Randolph are: William Cabell Bruce. *John Randolph of Roanoke* (New York: G. P. Putnam and Sons, 1922); and Henry Adams. *John Randolph of Roanoke* (Boston: Houghton, Mifflin and Company, 1898).

¹⁵ Henry Adams, p. 25.

¹⁶ *Register of Debates*, 19th Congress, 1st sess., 142.

¹⁷ Richardson, II, p. 327.

¹⁸ *Register of Debates*, 19th Congress, 1st sess., 388.

¹⁹ *Register of Debates*, 19th Congress, 1st sess., 390-401.

²⁰ *Senate Journal*, 20th Congress, 1st sess., p. 160.

²¹ *National Journal*, May 1, 1826 (Washington); *National Intelligencer*, May 20, 1826 (Washington); Dangerfield, pp. 363-64.

²² Dangerfield, pp. 357-58; Glyndon Van Deusen. *The Life of Henry Clay* (Boston: Little, Brown and Company, 1937), pp. 220-23; Davidoff, pp. 255-59.

²³ Ernest Bates. *The Story of Congress* (New York: Harper and Brothers, 1936), p. 121; *Register of Debates*, 19th Congress, 1st sess., 150.

²⁴ Van Deusen, pp. 210-11.

²⁵ Dangerfield, chapter 5.

²⁶ Bruce, II, p. 203.

²⁷ Van Buren, p. 171.

²⁸ Van Deusen, p. 227.

²⁹ Bates, p. 125.

³⁰ Van Buren to Thomas Ritchie, January 13, 1827, quotes in Dangerfield, p. 399.

³¹ Van Buren, p. 169.

³² *Register of Debates*, 19th Congress, 2nd sess., 496.

³³ *Ibid.*

³⁴ Dangerfield, p. 402.

³⁵ Robert Remini. *Martin Van Buren and*

the Making of the Democratic Party (New York: Columbia University Press, 1951), p. 174.

³⁶ Remini, chapter 6.

³⁷ John Taylor to Mrs. Taylor, April 3, 1828, quoted in Dangerfield, p. 406.

³⁸ Arthur Schlesinger, Jr. *The Age of Jackson* (Boston: Little, Brown and Company, 1946), p. 45.

³⁹ *Register of Debates*, 20th Congress, 1st sess., 750-70.

⁴⁰ *Speeches of John C. Calhoun*. Richard K. Cralle, ed. quoted in Dangerfield, p. 408.

⁴¹ Remini, p. 182.

⁴² *Register of Debates*, 19th Congress, 1st sess., 16-17.

⁴³ Thomas Hart Benton. *Thirty Years' View* (New York: Appleton and Company, 1883), p. 79.

⁴⁴ *Register of Debates*, 19th Congress, 1st sess., 19-20.

⁴⁵ Benton, p. 83.

⁴⁶ *Register of Debates*, 19th Congress, 1st sess., 19.

⁴⁷ *Ibid.*, pp. 1-6.

⁴⁸ *Register of Debates*, 20th Congress, 1st sess., 111.

⁴⁹ *Niles' Weekly Register*. (Baltimore), April 26, 1828, pp. 145-146; *Register of Debates*, 20th Congress, 1st sess., 810.

⁵⁰ *Register of Debates*, 20th Congress, 1st sess., 810.

⁵¹ *Niles' Weekly Register*, February 2, 1828, pp. 28-31.

⁵² *Ibid.*, p. 398.

⁵³ Michael Holt. "The Democratic Party, 1828-1860," in *History of U.S. Political Parties*. Arthur M. Schlesinger, Jr., ed. (New York: Chelsea House, 1973), pp. 497-536.

⁵⁴ *Ibid.*

⁵⁵ Dangerfield, p. 416.

⁵⁶ Holt, p. 503.

⁵⁷ Dangerfield, chapter 7; Marquis James. *The Life of Andrew Jackson* (New York: The Bobbs' Merrill Company, 1938), Vol. II, chapter 8.

⁵⁸ Josephy, p. 170.

⁵⁹ Holt, p. 504-05.

Madam President, I yield the floor.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 2, 1981

The PRESIDING OFFICER (Mrs. KASSEBAUM). Under the previous order, the Senate stands adjourned until 12 noon, Monday, November 2, 1981.

Accordingly, the Senate, at 3:59 p.m., adjourned until Monday, November 2, 1981, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate October 30, 1981:

DEPARTMENT OF JUSTICE

William F. Weld, of Massachusetts, to be U.S. Attorney for the district of Massachusetts for the term of 4 years, vice Edward F. Harrington, resigning.