SENATE—*Wednesday, November 18, 1981*

(Legislative day of Monday, November 2, 1981)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Our help is in the name of the Lord, who made heaven and earth.—Psalms 124: 8.

Sovereign Lord, as the founders of this Republic sought and heeded Thy counsel more than 200 years ago, so may we in this crucial hour. Thy word promises: *If any one lack wisdom, let him ask of God who giveth freely and upbraideth not, and it shall be given him.*—James 1: 5.

Gracious Father, grant that the leadership of this Nation, like the Founding Fathers, shall humble themselves before Thee, acknowledge their need of Thy wisdom, open their hearts to the Holy Spirit's direction and allow themselves to be guided in the light of Thy truth. We ask this in the name of Him who is "the Way, the Truth, and the Life." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. 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 PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE TODAY

Mr. BAKER. Mr. President, after the recognition of the two leaders today, there are special orders in favor of the Senator from Colorado (Mr. HART) and the Senator from Delaware (Mr. BIDEN), for not to exceed 15 minutes each. There is also a previous order, according to my notes, for morning business to extend not past 11:30 a.m. today.

At 11:30 a.m., I remind Senators, the Senate will go into executive session for the purpose of considering the resolutions of ratification on nine treaties, and there will be one vote to count for nine. So Senators are urged to watch their clocks and to be here in time for that very important vote.

Immediately after that vote, there will be a vote on the Helms amendment to the State-Justice-Commerce appropriations bill, dealing with school prayer.

Debate on State-Justice will continue thereafter, until 1 p.m., when the Senate, by order previously entered, will proceed to the consideration of the continuing resolution, House Joint Resolution 357.

THE PRESIDENT'S FOREIGN POLICY SPEECH

Mr. BAKER. Mr. President, I have just watched a historic speech by the President of the United States to the National Press Club and, by television, to the country and the entire world.

The President reiterated this Nation's commitment to the Atlantic Alliance and the desire to reduce the massive buildup of arms in Europe. I should like to quote one paragraph from the President's speech. He said:

> There is no reason why people in any part of the world should have to live in permanent fear of war or its specter. I believe the time has come for all nations to act in a responsible spirit that does not threaten other states. I believe the time is right to move forward on arms control and the resolution of critical regional disputes at the conference table.

I commend the President of the United States for this effort on behalf of peace and stability.

Mr. President, I ask unanimous consent that the entire text of the President's speech be printed in the RECORD.

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

The President's speech is as follows:

TEXT OF THE ADDRESS BY THE PRESIDENT TO THE NATIONAL PRESS CLUB

Back in April while in the hospital I had, as you can readily understand, a lot of time for reflection.

One day I decided to send a personal, hand-written letter to Soviet President Leonid Brezhnev reminding him that we had met about 10 years ago in San Clemente, California, as he and President Nixon were concluding a series of meetings that had brought hope to all the world. Never had peace and goodwill seemed closer at hand. I would like to read you a few paragraphs from that letter.

"Mr. President: When we met I asked if you were aware that the hopes and aspirations of millions of people throughout the world were dependent on the decisions that would be reached in your meetings. You took my hand in both of yours and assured me that you were aware of that and that you were dedicated with all your heart and mind to fulfilling those hopes and dreams."

I went on in my letter to say: "The people of the world still share that hope. Indeed, the peoples of the world, despite differences in racial and ethnic origin, have very much in common. They want the dignity of having some control over their individual destiny. They want to work at the craft or trade of their own choosing and to be fairly rewarded. They want to raise their families in peace without harming anyone or suffering harm themselves. Government exists for their convenience, not the other way around."

"If they are incapable, as some would have us believe, of self government, then where among them do we find any who are capable of governing others?"

"Is it possible that we have permitted ideology, political and economic philosophies, and governmental policies to keep us from considering the very real, everyday problems of our peoples? Will the average Soviet family be better off or even aware that the Soviet Union has imposed a government of its own choice on the people in Afghanistan? Is life better for the people of Cuba because the Cuban military dictate who shall govern the people of Angola?"

"It is often implied that such things have been made necessary because of territorial ambitions of the United States; that we have imperialistic designs and thus constitute a threat to your own security and that of the newly emerging nations. There not only is no evidence to support such a charge, there is solid evidence that the United States, when it could have dominated the world with no risk to itself, made no effort whatsoever to do so."

"When World War II ended, the United States had the only undamaged industrial power in the world. Our military might was at its peak—and we alone had the ultimate weapon. the nuclear weapon, with the unquestioned ability to deliver it anywhere in the world. If we had sought world domination then, who could have opposed us?"

"But the United States followed a different course—one unique in all the history of mankind. We used our power and wealth to rebuild the war-ravaged economies of the world, including those nations who had been our enemies. May I say there is absolutely no substance to charges that the United States is guilty of imperialism or attempts to impose its will on other countries by use of force."

I concluded my letter by saying, "Mr. President. should we not be concerned with eliminating the obstacles which prevent our people—those you and I represent—from achieving their most cherished goals?"

It is in the same spirit that I want to speak today to this audience, and the people of the world, about America's program for peace and the coming negotiations which begin November 30 in Geneva, Switzerland. Specifically, I want to present our program for preserving peace in Europe, and our wider program for arms control.

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

Twice in my lifetime I have seen the peoples of Europe plunged into the tragedy of war. Twice in my lifetime Europe has suffered destruction and military occupation in wars that statesmen proved powerless to prevent, soldiers unable to contain, and ordinary citizens unable to escape. And twice in my lifetime, young Americans have bled their lives into the soil of those battlefields—not to enrich or enlarge our domain—but to restore the peace and independence of our friends and allies.

All of us who lived through those troubled times share a common resolve that they must never come again. And most of us share a common appreciation of the Atlantic Alliance that has made a peaceful, free and prosperous Western Europe in the post-war era possible.

But today a new generation is emerging on both sides of the Atlantic. Its members were not present at the creation of the North Atlantic Alliance. Many of them do not fully understand its roots in defending freedom and rebuilding a war-torn continent. Some young people question why we need weapons—particularly nuclear weapons—to deter war and to assure peaceful development. They fear that the accumulation of weapons itself may lead to conflagration. Some even propose unilateral disarmament.

I understand their concerns. Their questions deserve to be answered.

But we have an obligation to answer their questions on the basis of judgment and reason and experience. Our policies have resulted in the longest European peace in this century. Would not a rash departure from these policies, as some now suggest, endanger that peace?

From its founding, the Atlantic Alliance has preserved the peace through unity, deterrence and dialogue.

First, we and our allies have stood united by the firm commitment that an attack upon any one of us would be considered an attack upon us all;

Second, we and our allies have deterred aggression by maintaining forces strong enough to ensure that any aggressor would lose more from an attack than he could possibly gain; and

Third, we and our allies have engaged the Soviets in a dialogue about mutual restraint and arms limitations, hoping to reduce the risk of war and the burden of armaments, and to lower the barriers that divide East from West.

These three elements of our policy have preserved the peace in Europe for more than a third of a century. They can preserve it for generations to come, so long as we pursue them with sufficient will and vigor.

Today, I wish to reaffirm America's commitment to the Atlantic Alliance and our resolve to sustain the peace. And from my conversations with Allied leaders, I know that they also remain true to this tried and proven course.

NATO's policy of peace is based on restraint and balance. No NATO weapons, conventional or nuclear, will ever be used in Europe except in response to attack. NATO's defense plans have been responsible and restrained. The Allies remain strong, united and resolute. But the momentum of the continuing Soviet military build-up threatens both the conventional and the nuclear balance. Consider the facts. Over the past decade:

—The United States reduced the size of its armed forces and decreased its military spending. The Soviets steadily increased the number of men under arms. They now number more than double those of the United States. Over the same period the Soviets expanded their real military spending by about one-third.

—The Soviet Union increased its inventory of tanks to some 50,000 compared to our 11,000. Historically a landpower, they transformed their navy from a coastal defense force to an open ocean fleet, while the United States, a sea-power with transoceanic alliances, cut its fleet in half.

—During a period when NATO deployed no new intermediate range nuclear missiles, and actually withdrew 1,000 nuclear warheads, the Soviet Union deployed more than 750 nuclear warheads on the new SS–20 missiles alone.

Our response to this relentless build-up of Soviet military power has been restrained but firm. We have made decisions to strengthen all three legs of the strategic triad—sea, land and air-based. We have proposed a defense program in the United States for the next 5 years which will remedy the neglect of the past decade and restore the eroding balance on which our security depends.

I would like to discuss more specifically the growing threat to Western Europe which is posed by the continuing deployment of certain Soviet intermediate nuclear missiles.

The Soviet Union has three different missile systems—the SS–20, the SS–4, and the SS–5—all with a range capable of reaching virtually all of Western Europe. There are other Soviet weapons systems which also represent a major threat. The only answer to these systems is a comparable threat to Soviet targets. In other words, a deterrent preventing the use of these Soviet weapons by the counter-threat of a like response against their own territory.

At present, however, there is no equivalent deterrent to these Soviet intermediate missiles. And the Soviets continue to add one new SS–20 a week. To counter this the Allies agreed in 1979, as part of a two-track decision, to deploy as a deterrent land-based cruise missiles and Pershing II missiles capable of reaching targets in the Soviet Union. These missiles are to be deployed in several countries of Western Europe.

This relatively limited force in no way serves as a substitute for the much larger strategic umbrella spread over our NATO Allies. Rather, it provides a vital link between conventional, shorter range nuclear forces in Europe and inter-continental forces in the United States. Deployment of these systems will demonstrate to the Soviet Union that this link cannot be broken.

Deterring war depends on the perceived ability of our forces to perform effectively. The more effective our forces are, the less likely it is that we will have to use them. So, we and our Allies are proceeding to modernize NATO's nuclear forces of intermediate range—to meet increased Soviet deployments of nuclear systems threatening Western Europe.

Let me turn now to our hopes for arms control negotiations. There is a tendency to make this entire subject overly complex. I want to be clear and concise.

I told you of the letter I wrote to President Brezhnev last April. Well, I have just sent another message to the Soviet leadership. It's a simple, straight-forward, yet historic message: the United States proposes the mutual reduction of conventional, intermediate range nuclear, and strategic forces.

Specifically, I have proposed a four-point agenda to achieve this objective in my letter to President Brezhnev.

The first, and most important, point concerns the Geneva negotiations. As part of the 1979 two-track decision, NATO made a commitment to seek arms control negotiations with the Soviet Union on intermediate range nuclear forces. The United States has been preparing for these negotiations through close consultation with our NATO partners. We are now ready to set forth our proposal. I have informed President Brezhnev that when our delegation travels to the negotiations on intermediate range land-based nuclear missiles in Geneva on the 30th of this month, my representatives will present the following proposal: the United States is prepared to cancel its deployment of Pershing II and ground launch cruise missiles if the Soviets will dismantle their SS–20, SS–4, and SS–5 missiles. This would be an historic step. With Soviet agreement, we could together substantially reduce the dread threat of nuclear war which hangs over the people of Europe. This, like the first footstep on the moon, would be a giant step for mankind.

We intend to negotiate in good faith and go to Geneva willing to listen to and consider the proposals of our Soviet counterparts. But let me call to your attention the background against which our proposal is made. During the past 6 years, while the United States deployed no new intermediate range missiles and withdrew 1,000 nuclear warheads from Europe, the Soviet Union deployed 750 warheads on mobile, accurate ballistic missiles. As this chart illustrates, they now have 1,100 warheads on the SS–20, SS–4, and SS–5 missiles and the United States has no comparable missiles. Indeed, the United States dismantled the

last such missile in Europe over 15 years ago.

As we look to the future of the negotiations, it is also important to address certain Soviet claims which, left unrefuted, could become critical barriers to real progress in arms control.

The Soviets assert that a balance of intermediate range nuclear forces already exists. That assertion is wrong. By any objective measure, as this chart indicates, the Soviet Union has an overwhelming advantage, on the order of six-to-one.

Soviet spokesmen have suggested that moving their SS–20's beyond the Ural mountains will remove the threat to Europe. As this map demonstrates, the SS–20's, even if deployed behind the Urals, will have a range that places almost all of Western Europe, the great cities—Rome, Athens, Paris, London, Brussels, Amsterdam, Berlin and so many more—all within range of these missiles, which incidentally are mobile and can be moved on short notice.

The second proposal I have made to President Brezhnev concerns strategic weapons. The United States proposes to open negotiations on strategic arms as soon as possible next year. I have instructed Secretary Haig to discuss the timing of such meetings with Soviet representatives.

Substance, however, is far more important than timing. As our proposal for the Geneva talks this month illustrates, we can make proposals for genuinely serious reductions but only if we take the time to prepare carefully. The United States has been preparing carefully for resumption of strategic arms negotiations because we do not want a repetition of past disappointments. We do not want an arms control process that sends hopes soaring only to end in dashed expectations.

I have informed President Brezhnev that we will seek to negotiate substantial reductions in nuclear arms which would result in levels that are equal and verifiable. Our approach to verification will be to emphasize openness and creativity—rather than the secrecy and suspicion which have undermined confidence in arms control in the past.

While we can hope to benefit from work done over the past decade in strategic arms negotiations, let us agree to do more than simply begin where these efforts previously left off. We can and should attempt major qualitative and quantitative progress. Only such progress can fulfill the hopes of our own people and the rest of the world. Let us see how far we can go in achieving truly substantial reductions in our strategic arsenals.

To symbolize this fundamental change in direction. we will call these negotiations START—Strategic Arms *Reduction* Talks.

The third proposal I have made to the Soviet Union is that we act to achieve equality at lower levels of conventional forces in Europe. The defense needs of the Soviet Union hardly call for maintaining more combat divisions in East Germany today than were in the whole Allied invasion force that landed in Normandy on D-Day. The Soviet Union could make no more convincing contribution to peace in Europe—and in the world—than by agreeing to reduce its conventional forces significantly and constrain the potential for sudden aggression.

Finally, I have pointed out to President Brezhnev that to maintain peace, we must reduce the risks of surprise attack, and the chance of war arising out of uncertainty or miscalculation. I am renewing our proposal for a conference to develop effective measures that would reduce these dangers. At the current Madrid meeting of the Conference on Security and Cooperation in Europe, we are laying the foundation for a Western-proposed Conference on Disarmament in Europe. This conference would discuss new measures to enhance stability and security in Europe. Agreement on this conference is within reach. I urge the Soviet Union to join us and the many other nations who are ready to launch this important enterprise.

All of these proposals are based on the same fair-minded principles: substantial, militarily-significant reductions in forces; equal ceilings for similar types of forces; and adequate provisions for verification.

My Administration, my country and I are committed to achieving arms reductions agreements based on these principles. Today I have outlined the kinds of bold, equitable proposals which the world expects of us. But we cannot reduce arms unilaterally. Success can only come if the Soviet Union will share our commitment; if it will demonstrate that its often-repeated professions of concern for peace will be matched by positive action.

Preservation of peace in Europe and the pursuit of arms reductions talks are of fundamental importance. But we must also help to bring peace and security to regions now torn by conflict, external intervention and war.

The American concept of peace goes well beyond the absence of war. We foresee a flowering of economic growth and individual liberty in a world at peace.

At the Economic Summit in Cancun, I met with the leaders of 21 nations and sketched out our approach to global economic growth. We want to eliminate the barriers to trade and investment which hinder these critical incentives to growth. And we are working to develop new programs to help the poorest nations achieve self-sustaining growth.

Terms like "peace" and "security" have little meaning for the oppressed and the destitute. They also mean little to the individual whose state has stripped him of human freedom and dignity. Wherever there is oppression, we must strive for the peace and security of individuals as well as states. We must recognize that progress in the pursuit of liberty is a necessary complement to military security. Nowhere has this fundamental truth been more boldly and clearly stated than in the Helsinki Accords of 1975. These Accords have not yet been translated into living reality.

Today I have announced an agenda that can help to achieve peace, security and freedom across the globe. In particular, I have made an important offer to forgo entirely deployment of new American missiles in Europe if the Soviet Union is prepared to respond on an equal footing.

There is no reason why people in any part of the world should have to live in permanent fear of war or its specter. I believe the time has come for all nations to act in a responsible spirit that does not threaten other states. I believe the time is right to move forward on arms control and the resolution of critical regional disputes at the conference table.

Nothing will have a higher priority for me and for the American people over the coming months and years.

Addressing the United Nations 20 years ago, another American President described the goal we still pursue today.

"If we all can persevere," he said, "if we can . . . look beyond our own shores and ambitions, then surely the age will dawn in which the strong are just and the weak secure and the peace preserved." He did not live to see that goal achieved.

I invite all nations to join with America today in the quest for such a world.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I, likewise, watched the President as he addressed the National Press Club, and I listened with great interest to what he had to say.

I feel that this was the best delivered speech I have seen the President make, and I congratulate him on the speech. I commend him on taking the leadership in the efforts to bring about disarmament, not on a unilateral basis, but, as he emphasized, meaningful disarmament, mutual arms control.

I believe his words will be well received around the world and should certainly give heart to all peace-loving peoples everywhere. I think his statement was timely, and what he had to say constituted a very constructive initiative on arms control.

It is my hope that the initiative the President has taken will put us in a strong opening position vis-a-vis the Soviets as we go into negotiations on the question of theater nuclear weapons on the European continent at the end of this month, in Geneva.

The Soviets have engaged in a very intensive propaganda offensive in recent months, throughout Europe, to discredit America's commitment to arms control.

This must be expected. This is certainly in accordance with their style and was predictable. They have skillfully attempted to divide the alliance and to play on the fears of many in Europe that Europe would be used as a battleground by tne superpowers. They have done this at the same time that they continue deploying medium-range ballistic missiles, as the President stated, at the rate of one SS–20 per week—primarily aimed at Europe.

The alliance has taken no steps to stimulate or to simulate this belligerent activity, except to plan the emplacement of American-made missiles beginning in 1983 unless the destabilizing Soviet deployment is stopped.

The President has now taken the lead in the propaganda offensive. I think he has very effectively taken the offensive out of the Soviets' hands. He has certainly spoken most convincingly, and in such a persuasive way that our European friends should be encouraged. Their concerns should be put to rest. In my judgment, he has put the Soviets on the defensive, precisely where they should be.

I am sure that all my colleagues on both sides of the aisle join me in wishing the administration complete success in persuading the Soviet Union to dismantle the SS–20 launchers which have been the major factor causing the imbalance of nuclear missiles in the European theater. It will be a most difficult job because, if there is one thing the Soviets are generally superior at, it is of being tough at the bargaining table. So the President has my support in this endeavor. If, however, the Soviets cannot be persuaded to engage in such meaningful reductions in the European theater, then the President has my complete support in going forward to lead the alliance to deploy our own missiles, because it will then be clear that there is no other alternative.

The President is seeking an alternative and he is seeking an alternative which would redound to the peace of the world and to the lowering of manpower costs, human costs, and monetary costs for all countries involved.

But if the Soviets should reject this effort on the part of the President, then we know there is no alternative, and in that regard, again, I support the President fully.

Without such credible determination, of course, the Soviets could not be persuaded to dismantle their SS–20's, SS–5's, and SS–4's.

In addition, Europe expects us to go forward with strategic intercontinental arms talks as the overall framework within which the TNF talks are to proceed. Today, the President indicated a strong willingness to proceed expeditionally with strategic negotiations next year, and again he can count on my complete support. I am hopeful those talks can begin as soon as possible.

I thank the Senator for yielding.

Mr. BAKER. Mr. President, I wish to express my profound thanks to the distinguished minority leader.

I venture the estimate that only the President's speech today will have more impact here and around the world than the statement just uttered by the distinguished Senator from West Virginia, the minority leader.

It was truly a statement of major importance. The President's speech, now supported by the bipartisan leadership of the Senate, this initiative so quickly endorsed by the distinguished minority leader I believe adds strength and credibility to the President's remarks that he could have received in no other way.

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

Mr. BAKER. I thank the minority leader. I am certain I speak for the President in expressing those thanks, and I believe the country will express its thanks to the minority leader for this act of prompt statemanship.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I hate to move from that lofty item to another item of routine business, but there are a few items on today's Executive Calendar that I am prepared to consider according to the notation on our Executive Calendar and have been cleared here.

I inquire of the minority leader if he is in a position to consider the nominations appearing on page 3 of today's Executive Calendar under the headings of both the Judiciary and the Department of Justice?

Mr. ROBERT C. BYRD. Mr. President, I am so prepared.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering all of the nominations appearing on page 3 of today's Executive Calendar.

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

The PRESIDING OFFICER. The nominations will be stated.

THE JUDICIARY

The legislative clerk read the nomination of Lawrence W. Pierce, of New York, to be U.S. circuit judge for the second circuit.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Emmett Ripley Cox, of Alabama, to be U.S. district judge for the southern district of Alabama.

THE NOMINATION OF EMMETT RIPLEY COX FOR THE POSITION OF UNITED STATES DISTRICT COURT JUDGE FOR THE SOUTHERN DISTRICT OF ALABAMA

Mr. HEFLIN. Mr. President, it is my distinct honor and pleasure to recommend to the U.S. Senate Emmett Ripley Cox of Alabama, nominee for the position of U.S. district court judge for the southern district of Alabama.

Mr. President, it was but a few months ago, in this August Chamber, that we passed judgment on Justice Sandra O'Connor's fitness for service on the bench of the highest Court in the land. As important as that Court is, and that nomination was, we often lose sight of the fact that it is our entire network of Federal courts which serves to protect our precious civil liberties and preserve our basic constitutional guarantees.

And it is the Federal district court which is the foundation, the bedrock, of that system. It is the district court—the entry level trial court within the Federal judiciary—to which aggrieved parties look for equity and justice.

The vast majority of cases filed in Federal court never reach the Supreme Court—not because they are not meritorious, but because they have been disposed of, and parties given redress, at the trial court level.

Recognizing the importance of the district court in our Federal system of jurisprudence, it is, then, no insignificant nomination which these hearings take up today.

I commend the President on this nomination. Mr. Cox is an outstanding attorney and I am confident that he will serve with distinction upon confirmation. He graduated in the upper 5 percent of his class at the University of Alabama Law School, where he was a member of the Moot Court Team representing the university, winning the Southeastern competition and competing with distinction at the national competition in New York.

Upon graduation from law school, he has practiced continuously in Birmingham and Mobile, Ala. The hallmark of his practice has been legal scholarship of the highest order, as exemplified by a landmark case early in his legal career. *Dallas County* v. *Commercial Union Assurance Co.*, 286 F.2d 388.

It involved the falling of a clock from the steeple of the courthouse of Dallas County, Ala. This case turned on the cause of the fall and whether a fire more than a half century before this incident was proximately related to the accident.

As a young lawyer, Rip Cox realized the predicament his client was in regarding evidentiary proof, and diligently researched the records of the Selma Morning Times until he found the appropriate article from 1901 supporting his client's position.

On appeal, based upon Mr. Cox's brief, the Fifth Circuit Court of Appeals wrote what has been acclaimed the single clearest treatise on the hearsay rules of evidence in modern times, reestablishing the

ancient document as a significant exception to the hearsay rule. Such legal scholarship has characterized Mr. Cox's work ever since.

This position in the southern district of Alabama is perhaps unique. It is headquartered in Mobile one of the major port areas of the Nation. It has only two active trial judges, who carry an extremely heavy caseload comprised of an interesting mixture of not only traditional civil and criminal litigation, but also an extremely large docket of admiralty, labor-management, and constitutional rights litigation.

Mr. Cox has had a diverse practice encompassing a great number of these areas. He has on a regular basis, represented both plaintiffs and defendants in civil litigation; and has had a heavy dose of admiralty, real estate and labor law practice in both Federal and State courts.

Mr. Cox was rated qualified for this position by the members of his local bar association and by the American Bar Association. In addition, a thorough and complete investigation was conducted by the Federal Bureau of Investigation and the Senate Judiciary Committee on this nomination.

I have personally met with Mr. Cox and discussed all issues and matters in regard to his qualifications and fitness for the bench. I am satisfied based upon the review of this nomination and my personal discussions with Mr. Cox, that he should be confirmed by the U.S. Senate.

Based upon my personal observation, and the nominee's eminent reputation within the legal community of Alabama, I am confident that he will serve with great distinction on the Federal bench, and with each case he tries, provide proof of the wisdom of President Reagan's nomination. It is with a great deal of pleasure that I recommend and wholeheartedly support, the nomination of Emmett Ripley Cox for this most important position.

Thank you, Mr. President.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Cynthia Holcomb Hall, of California, to be U.S. district judge for the central district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Clarence A. Beam, of Nebraska, to be U.S. district judge for the district of Nebraska.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of John Bailey Jones, of South Dakota, to be U.S. district judge for the district of South Dakota.

HON. JOHN BAILEY JONES

Mr. ABDNOR. Mr. President, with Senate confirmation of the nomination of John Bailey Jones as U.S. district judge for the district of South Dakota, a distinguished American has joined the Federal judiciary.

It was a unique personal privilege for me to join with my distinguished senior colleague, the Honorable LARRY PRESSLER, in introducing Judge Jones to the Senate Judiciary Committee last week for his confirmation hearing.

John Jones and I grew up as neighbors in Lyman County, S. Dak. We attended school in the county and later served in the South Dakota Legislature together—he in the house of representatives while I was in the senate.

In introducing Judge Jones to the committee, I commented briefly on some of the qualities which prompt me and a host of others in South Dakota to include him among the very, very select few we esteem and hold in highest respect. John's personal integrity, his honesty, his sense of personal responsibility, his diligence, his dedication to and high regard for the law, and particularly, his unique understanding of people and their problems are among his very special attributes.

A Judicial Qualifications Committee, upon examining the qualifications of some 18 potential nominees for this position on the Federal bench, included Judge Jones upon its top recommendations. Upon his ultimate selection, the choice of John Jones was greeted with rare unanimity from members of the Judiciary, the legal profession, the press, Republicans and Democrats alike—and even among the others who sought the post.

U.S. District Judge Fred J. Nichol, who is retiring this year, said of Judge Jones:

Every word I've ever heard of him . . . has been good, and I welcome him to the federal judiciary. A judge's judge—a topflight choice . . . and you will have no regrets whatever over his carrying out of that office—a reputation of ability and fairness and a personal integrity beyond reproach—a gratifying choice on merit and qualifications and not for political reasons—a great credit to the legal profession and to the bench are typical of the public comments which greeted the announcement of his selection.

Such universal tribute is highly unusual in South Dakota or any other State.

John Bailey Jones was born in and grew up in South Dakota. He continues to reside in Presho.

He received his college and law school education at the University of South Dakota. This was preceded by 2 years of active duty in the U.S. Navy. After completing law school, Judge Jones entered private practice and concurrently served as county judge in Lyman County, S. Dak.

In 1967 he was appointed circuit judge for the 10th District of South Dakota, where he has continued to serve with distinction. In addition to his service in the South Dakota Legislature, he has been active in numerous civic and professional endeavors. Particularly noteworthy is his service to the South Dakota American Legion Boys' State, a program for young people dealing with the responsibilities of citizenship and government.

Judge Jones on the Federal bench is indeed a credit to the Federal judiciary, its finest traditions and its highest standards.

NOMINATION OF JOHN B. JONES TO BE FEDERAL DISTRICT JUDGE

Mr. PRESSLER. Mr. President, I wish to voice my strong support for the nomination of John Bailey Jones to be U.S. district judge for the district of South Dakota.

Judge Jones is considered in my home State as one of the most preeminent trial judges in South Dakota. He is a fine example of the type of individual who should be elevated to the Federal bench. The President, recognizing the need for experience in the Federal judiciary, has wisely chosen a man of Judge Jones' background for this nomination.

Judge Jones has been a judge of the Sixth Judicial Circuit in South Dakota since 1967. Prior to that he was a county court judge. During this long period on the bench, Judge Jones has tried a wide variety of cases presented by hundreds of counsel. In my visits with members of the South Dakota bar. I have heard nothing but universal acclaim for his legal ability and fairness. These are qualities which will serve him well on the Federal bench.

A native of South Dakota, Judge Jones was born in Mitchell. He received both his undergraduate and legal degrees from the University of South Dakota. Prior to going on the bench, he was engaged in the general practice of law for 14 years in Presho, Lyman County, where he and his wife, Rosemary, have resided and raised their six children.

Judge Jones has a fine record of involvement in civic affairs and served in the South Dakota Legislature. While on the bench, Judge Jones has been active in a number of judicial organizations and institutes for continuing judicial education.

Both on and off the bench, Judge Jones enjoyed the highest reputation for diligence, competence, and integrity. As a devoted family man and as a willing contributor of time and effort to the betterment of his community, he is a highly respected citizen in Lyman County. His dedication to the fair and efficient administration of justice has also gained him the reputation as an outstanding jurist throughout our State.

Mr. President, I applaud President Reagan for his excellent selection for this judicial position. I urge my colleagues to quickly confirm this nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Robert J. Wortham, of Texas, to be U.S. attorney for the eastern district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Alan H. Nevas, of Connecticut, to be U.S. attorney for the district of Connecticut.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of John W. Gill, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee.

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

The legislative clerk read the nomination of Joseph P. Russoniello, of California, to be U.S. attorney for the northern district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Philip N. Hogen, of South Dakota, to be U.S. attorney for the district of South Dakota.

SOUTH DAKOTA'S NEW U.S. ATTORNEY

Mr. ABDNOR. Mr. President, it is a pleasure for me to applaud the Senate's action today in confirming the nomination of Philip N. Hogen as South Dakota's new U.S. district attorney.

Phil Hogen is uniquely qualified for this position. He is an excellent attorney with broad-based experience. He is thorough, conscientious and sensitive to all aspects of the responsibilities of this office.

Earlier this year the Justice Department listed nine criteria on which they reviewed the various candidates for U.S. attorney. Phil Hogen not only fulfilled all these requirements, but more. He brings to the job a good, broad background of practical legal and administrative experience, and a devotion to vigorous law enforcement and the principles for which the American people supported the Reagan administration so enthusiastically. A lifelong South Dakotan, he is the son of a Sioux Indian mother and grandson of immigrant Scandinavian homesteaders all of whom had a keen interest in all levels of government in this country.

Inasmuch as he was my administrative assistant when I first came to Congress, I am especially knowledgeable of his qualifications for the position of U.S. attorney, and have been honored to enthusiastically endorse his nomination and confirmation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of J. Jerome Perkins, of Indiana, to be U.S. marshal for the northern district of Indiana.

Mr. LUGAR. Mr. President, I am deeply pleased that the Senate will have the opportunity to confirm today, an outstanding black law enforcement official, J. Jerome Perkins to be the U.S. marshal for the U.S. district court in the northern district of Indiana.

Mr. Perkins is the first black citizen in the history of the Indiana northern district to serve in this important position, and only the second black to serve as a U.S. marshal in the State of Indiana.

This nomination by the President is also important because it came to floor after Mr. Perkins was recommended as the best individual for this job on a merit basis by a bipartisan selection committee I established with my colleague from Indiana, Senator DON QUAYLE, to replace the political patronage system.

Mr. Perkins has enjoyed an extensive career in law enforcement, and has special experience in working with young people. He has been the supervisor of security for the South Bend, Ind. school system. He is a 20-year veteran of the South Bend police force and the former chief of detectives. He has been very active in his church and in his community.

The Senate confirmation of Mr. Perkins to be U.S. marshal is a proud day for all citizens of Indiana, who are committed to equal opportunity and justice.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Denny L. Sampson, of Nevada, to be U.S. marshal for the district of Nevada.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have 1 minute remaining and, with the indulgence of the minority leader, I yield that 1 minute to the distinguished Senator from Wyoming, the chairman of the Ethics Committee.

Mr. WALLOP. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

SCHEDULE OF TAPE RECORDING VIEWINGS IN THE MATTER OF SENATOR WILLIAMS

Mr. WALLOP. Mr. President, I offer today a further reminder to my colleagues who have not seen the taped material in the matter of Senator WILLIAMS to take advantage of the Ethics Committee's new showings of those materials.

I remind them that December 3 has been fixed as the date for floor action on Senate Resolution 204, a resolution to expel Senator WILLIAMS. Each Member will surely want to become informed of the evidence upon which the Ethics Committee based its recommendation, both out of a sense of fairness to the Senate and to Senator WILLIAMS. To assist the Members with the great volume of data, the committee has sent to each office a copy of each committee publication in this matter, and a number of the tape recordings played in the committee hearings will be presented again on Thursday, November 19, and Tuesday, November 24.

There are approximately 35 Senators each of whom I will call on personally who have not yet heard and seen these tape recordings. Senator HEFLIN and I urge all of them to take advantage of one of these sessions. There will be four identical sessions on those 2 days, one each morning from 9:15 a.m. to 12:45 p.m., and one each afternoon from 2:15 p.m. to 5:45 p.m. The location is in room 457 Russell, and no appointment is necessary. One staff person per Senator may attend the afternoon session on November 24.

Again I remind each Member that it behooves each Member to equip himself to make an informed judgment when this important resolution is voted upon.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the distinguished Senator from Colorado (Mr. HART) if he has need thereof.

RECOGNITION OF SENATOR HART

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, may I inquire as to what the time situation is?

The PRESIDING OFFICER. The Senator has all the leadership time available and, additionally, the Senator has a special order for 15 minutes.

Mr. HART. I thank the Chair.

THE PRESIDENT'S SPEECH TODAY

Mr. HART. Mr. President, I wish to go on record this morning supporting the position taken by the minority leader, the Senator from West Virginia, in strong support of the initiative taken by the President this morning to control the spread of nuclear weapons in Europe.

The President has put forward a bold and far-reaching arms control position, and we all wish him well in promoting that position, whether we are Democrat or Republican.

The American people and I believe the people of the world understand that there is probably no issue before civilized mankind more important than bringing some control to the spread of nuclear weapons

whether they are on the Continent of Europe or throughout the world itself.

NATO

Mr. President, for good or for ill the proposal put forward by the President this morning cannot be taken out of the context of the general state of health of the NATO Alliance today.

NATO is the United States most important defense commitment worldwide and unfortunately many have come to believe that that relationship over the past year or two or more is in danger of unraveling.

It is in fact the failure of our foreign policy in Europe for the last 10 months that jeopardizes the critical theater nuclear force talks, and fortunately the proposal put forward by the President cannot be considered on its merits out of the context of the health of that alliance.

The importance of that alliance, of course, goes beyond the linked heritages of the United States and Europe and beyond our linked military and economic interests. The NATO Alliance is the living embodiment of the lesson that we learned from World War II, the lesson of collective security against a common threat.

Yet today, as I have indicated, the NATO alliance is under deep stress. These strains have been brought about, in large part, by the misstatements, missteps, and out-and-out mistakes of the Reagan administration. Examples of those mistakes are numerous.

First, and perhaps foremost, the administration alarmed our allies with its unilateral decision to build the neutron bomb. Building a weapon to be used on European soil involves vital European interests; it demands full consultation with our allies. Yet the Reagan administration announced plans to develop the neutron bomb without adequate consultation. We have every right to expect our allies to bear their fair share of NATO's burdens, but if we want them to do that, we must respect their desire to participate in the decision. Until the administration commits to full discussion with allies—before the fact—we cannot have a strong and healthy alliance.

Second, the administration has ignored the real issue of how to provide a quality defense for NATO in the 1980's.

In the NATO alliance, as here at home, increasing military spending alone does not insure military effectiveness, since it does not address the fundamental military questions. Military effectiveness depends on tactics, on unit cohesion, on readiness, for example, not on spending alone.

But the administration has provided no leadership in this area. It—like the administration before it—has offered only quantitative solutions. It defined sharing the burden of spending in terms of an arbitrary percentage of growth in military spending. But it is impossible for European leaders to gain support for increased defense spending without a clear qualitative redefinition of the notion of military strength in a changing world.

More important, a qualitative definition of strength requires reallocating the military division of labor for protecting the West's vital interests. Since the NATO alliance was formed, world realities have changed. The economic and military interests we share with our Western European partners now extend well beyond the central front of Europe—to the Middle East, to Japan, to increased trade with Warsaw Pact nations. Until we face the question of protecting vital Western interests in a changed world, we will not have a strong and healthy alliance.

Third, the administration has failed to articulate a clear military rationale for placing intermediate-range American missiles on European soil. We have not explained how the deployment of these weapons fits into our overall defense strategy. Until we can provide a military rationale for putting the cruise missile on European soil—where it will be vulnerable—we cannot gain European support for it. Until we articulate a clear and convincing military rationale for putting our weapons in Europe, we cannot have a strong and healthy alliance.

Fourth, our allies are increasingly insecure because the administration has delayed negotiations with the Soviet Union, on both theater nuclear forces and the larger issue of strategic forces.

We have to applaud once again the initiative taken by the President today. Had that initiative been taken sometime last spring or summer we would have a better chance of gaining the support of our allies in standing behind our commitment to deploy those weapons if negotiations fail.

By pursuing force modernization but not arms control negotiations, we have violated the essence of the NATO agreement of 1979. This has allowed the Soviet Union to paint us as the obstacle to peace. The growing European anti-nuclear movement is visible evidence of the erosion of this policy. Although Soviet SS-20's pointed at the heart of European cities are fact, the possibility of intermediate-range U.S. missiles on European soil has engendered greater fear—because Europeans view our delays in negotiations as a lack of commitment to the prevention of nuclear war. Until we fully commit ourselves to both strategic and TNF negotiations, we will not have a strong and healthy alliance.

Here the President must go forward with bringing our SALT negotiators to the bargaining table much sooner than next spring to make this a fact.

Fifth, the administration has alarmed our allies with its loose talk on limited nuclear war. The administration's ill-considered statements have helped confirm what so many Europeans fear: That when the United States talks of limited nuclear war, it means nuclear war limited to the European Continent. Until the administration clearly rejects the dangerous notion of limited nuclear war, we will not have a strong and healthy alliance.

Sixth, the NATO alliance has been strained by the administration's economic policies, as well as its military policies. Our economic policies—most notably the high interest rates the administration uses as its single weapon against inflation—have serious negative effects on our allies and their trading partners. As the administration's hard-line rhetoric chills East/West relations, Europeans have lost the benefit of increased trade with Warsaw Pact nations, which had been an economic side effect of détente. Until this administration recognizes that our economies are intertwined just as our security is intertwined, we will not have a strong and healthy alliance.

Finally, our allies are concerned by the administration's single-minded insistence on dealing with world problems in military terms alone. Our security depends on military effectiveness, but some critical international problems demand social, economic, and diplomatic solutions as well.

The administration prefers to rely on near-impossible military action in the Middle East to secure our oil supply while abandoning domestic policies that could bring energy independence to this Nation. And so, we do little to bring much-needed stability to a troubled region on which our allies rely so heavily.

The administration persists in ignoring the vitally important issue of halting the spread of nuclear weapons worldwide. While it calls for repealing the Symington amendment, for lifting the ban on commercial spent fuel reprocessing, for exporting nuclear materials to countries that have not accepted international safeguards, European and American cities could become vulnerable to nuclear terrorism. Deterrence, a military solution, has no effect on terrorists.

The administration also persists in ignoring the overwhelming needs of the Third World—for food, for health, for economic development. Left unmet, these needs are the seeds of war.

Until we recognize that there are threats to our long-term security that cannot be met by arms alone, we cannot have a strong and healthy alliance.

All this adds up to 10 months of failed foreign policy which has seriously undermined the NATO alliance. A weakened NATO would be a matter of serious concern at any time. But now, on the threshold of the crucially important TNF talks, the implications are particularly grim.

The President's laudable objectives for the TNF talks—the so-called zero-level option—is jeopardized by the very lack of unity some of his policies have produced.

First, the administration's ineptitude may have deprived the alliance of the most important lever we have at the bargaining table—NATO cohesion. To agree to the zero-level option, the Soviets must believe we are negotiating with the full support and commitment of our European allies. But the Soviets can find ample evidence of dissension and disagreement in NATO. They may count on the continuing erosion of European support to keep U.S. missiles out of Europe, believing their SS-20's might remain without ever having to face the countervailing NATO forces they fear.

In other words, the Soviets could take a calculated risk—to forgo good faith negotiations now, and hope for a more

favorable outcome later, because of some of the lack of confidence that our European and NATO allies feel for that alliance.

Second, if the administration's effort to negotiate the zero-level option fails for these reasons, there may not be sufficient European support for deploying our missiles—even at reduced numbers. The antinuclear movement is broad-based and growing. It includes not just traditional pacifists, but trade unionists, women's groups, and church activists. They—like American citizens in Nevada and Utah—do not want nuclear weapons in their backyards. Before we dismiss them, remember that two administrations failed to garner domestic support for an MX basing mode here in our country. The administration badly miscalculates the breadth and depth of European antinuclear sentiment. Clumsy statements suggesting the protesters are following a line laid down in Moscow only further divide the necessary base of European support for our arms control initiative.

Third, even the most successful conclusion to the TNF talks—adoption of the zero-level option—would be, at heart, inadequate to European nuclear security if there is not parallel progress on limiting strategic weapons.

Both the United States and the Soviet Union have weapons that are dual targeted. They may be used as intercontinental missiles—but they can also be used as theater weapons in Europe. Even the best TNF agreement contains this huge loophole. Closing the loophole will require limits on intercontinental missiles—something that can be accomplished only in the larger context of SALT talks.

As long as the administration focuses only on theater nuclear weapons, and neglects intercontinental weapons, they will remain a threat to the security of the Western alliance—as well as to the United States—as long as there is no strategic arms agreement.

Strategic arms limitation agreements are vital to our national security. And they are vital to the security of the NATO alliance for much the same reasons as they are vital to us:

An agreement would limit the size of the Soviet threat;

An agreement would provide greater certainty for defense planning;

An agreement would give us greater ability to focus our resources on conventional forces;

An agreement would help us build a much-needed new consensus on collective security issues.

This last point is the real challenge for NATO. At the end of World War II, we recognized that U.S. national security was inseparable from the security of Western Europe. That is still the case today. But nearly every other fact of the immediate postwar world has changed.

Today we need to reexamine our experience in the postwar years, to reconsider its meaning, and to reach a new consensus based on a strategic reformulation of alliance policies for the 1980's.

We must apply a healthy skepticism to the actions of the Soviet Union and move beyond the naivete and sentimentality of détente.

We must reconsider the individual defense responsibilities of the nations in the alliance. We must recognize that the NATO alliance's economic and military interests are broader than ever before, and reach consensus on a new division of labor.

We must work with the allies toward economic and diplomatic solutions for problems that cannot be solved militarily.

We must recognize that military effectiveness lies not in spending more or spending less, but in spending better, and with our allies, we must concentrate on what we need to fight and win wars.

And we must make Europe a full partner in United States-Soviet nuclear arms control talks and direct our policies toward the absolute prevention of nuclear war—the most overriding concern in the world today.

At a time when the only true security is collective security, we have shaken the confidence of the very allies who would provide it. In an age where once distant countries are neighbors, and where nuclear weapons threaten worldwide holocaust, there is no way—and no need—to go it alone. We must draw on our allies' wisdom and experience—and we must learn to act in concert with them.

Once again, Mr. President, I think all of us laud and applaud the initiative put forward by the President of the United States this morning. But the key to that initiative's success is the participation and confidence which our European allies have in that proposal.

The Soviet Union must believe that the failure of progress in limiting theater nuclear weapons would mean a deployment of our modern nuclear weapons on European soil. If our allies do not have the confidence in the Alliance and in us to commit to that deployment, then we hold a very weak bargaining hand. We all hope that the steps taken over the past 8 or 10 months that have led to the erosion in the NATO confidence in us can be redirected and changed, hopefully overnight, by the action taken by the President. We will support those actions. We will urge our allies to cooperate with us.

But we must have the credibility of their commitment to us and to the Alliance to make the President's bargaining position strong enough to succeed. And we all hope that it will succeed.

Mr. President, I yield the floor 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.

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

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 11:30 a.m.

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

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

PRESIDENT REAGAN ON STRATEGIC ARMS CONTROL

Mr. PRESSLER. Mr. President, I rise to commend and praise President Reagan for his speech on strategic arms this morning. I have frequently said that President Reagan may well be more effective in the arms control area than any President we have had. I have also said that President Reagan may be able to accomplish in the arms control area what former President Nixon was able to accomplish on China policy. That may sound strange to some, but I say it because of the trust with which President Reagan is regarded by certain political elements normally opposed to any arms control agreement. He is in a unique position from a domestic political point of view to enter into balanced and verifiable arms control agreements and to move forward effectively in this area.

President Richard Nixon, who was considered a conservative, anti-Communist President, could go to China and establish foreign relations with that Communist Nation more easily than could a liberal Democrat.

The same may be true for President Reagan in the arms control area. The Reagan administration is in a unique position to negotiate with the Russians on arms control and arms reductions.

Let me also say, as chairman of the Arms Control Subcommittee of the Foreign Relations Committee, that there has been much talk about arms control, arms reductions, and arms limitations over the years, but very little has been accomplished. We are faced now with a huge budgetary deficit. There is growing realization that we cannot afford, without adding greatly to that budget deficit, some of the weapons that have been considered. Neither can the Soviets afford further escalation of the nuclear arms race.

I hope the Soviets will read the President's speech carefully. I am confident that it will be received around the world very well because it is a very serious effort to initiate genuine arms control.

I commend the majority and minority leaders for their statements here in the Chamber this morning.

I want to praise President Reagan for his arms control speech and for his efforts in strategic policymaking. I believe he is a man of peace who understands the realities of the world situation. Without effective verification methods, and without a serious response from the other side, we cannot expect him to succeed. But President Reagan has taken a

giant step this morning in his speech, and I am very pleased with his initiatives.

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

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

PRIVILEGE OF THE FLOOR

Mr. WEICKER. Mr. President, I ask unanimous consent that Mr. Geoffrey Baker and Mr. Steve Moore of my staff be granted the privilege of the floor during the present time, the treaty vote, and the vote on the State, Justice, Commerce bill.

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

ANNOUNCEMENT OF INTENTIONS TODAY ON COMMERCE—STATE—JUSTICE APPROPRIATIONS BILL

Mr. WEICKER. Mr. President, I should like to state at this time that it is my intention to oppose the amendment of the distinguished Senator from North Carolina to the State, Commerce, Justice appropriations bill. I indicated yesterday in a dialog with the distinguished Senator from North Carolina that I would take a look at his amendment, determine its effect on this legislation, and then give him my opinion today as to whether or not to oppose the amendment.

It is my intention to oppose the amendment of the distinguished Senator from North Carolina. It is also my intention, Mr. President, to continue to discuss in detail the various aspects of the State, Justice, Commerce appropriations bill and, more particularly, the effect of what has been done to it in terms of legislative language.

Mr. President, I felt it necessary to place these thoughts on the record in light of the dialog that took place yesterday around midday.

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. PERCY. 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. PERCY. Mr. President, I ask unanimous consent to proceed for 7 minutes so that I may make a statement prior to the vote.

Mr. STENNIS. Mr. President, may we have order, so that the Senator can be heard?

The PRESIDING OFFICER. The Senator will be in order.

It is the request of the Senator from Illinois that he be permitted to proceed for 7 minutes. Is there objection? The Chair hears none, and it is so ordered.

LATVIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today is a very important day, indeed. It is the 63d anniversary of the independence of Latvia, whose right of national self-determination found proper recognition at the end of World War I.

In 1941, that right, that independence, that nationhood, were cruelly violated when the Soviet Union invaded, repressed, and annexed Latvia, along with her neighboring Baltic nations, Lithuania and Estonia.

Today, as Americans, we commemorate Latvia's national independence. We renew our support for the legitimate aspirations of the people of Latvia. We stand up to be counted in favor of the restoration of basic human rights in Latvia. And we oppose the U.S.S.R.'s Russification of Latvia and suppression of Latvia's own identity and traditions.

I also join with all Americans in saluting the dedication of Latvian Americans to Latvian independence, and in acknowledging our admiration for the contributions they have made to this country.

Mr. President, it is symbolic and important to me that on the floor with me today is Senator JOHN STENNIS, who for many years was the guiding spirit and the guiding light—and still is—behind the Senators' prayer breakfast. Tomorrow morning, Senators—25 or so—will bow their heads and pray to God.

In this Chamber, we have emblazoned in marble "In God We Trust," and it is the only legislative body I know of in the world that has such an inscription on its walls, and we certainly recognize that we seek guidance for our activities here.

I was very pleased to note that today, in the House of Representatives, the opening prayer was delivered by Rev. Vilis Varsbergs, of the Chicago Latvian Zion Evangelical Lutheran Church. I am very honored and pleased that he is in Washington today. I shall read the prayer he delivered this morning in the House of Representatives, and I suppose this is the first time that a prayer delivered in the House has been uttered on the floor of the Senate the same morning:

> Almighty God, Father of peoples and Lord of nations: constantly remind us, we pray, that history is Your story which tells us that You desire freedom and justice even for the small and weak. Help us, therefore, to hasten the day when no man and no people will be oppressed and exploited. This day we especially ask Your favor upon Latvia and her neighbors Estonia and Lithuania. As You had given them a brief day of freedom, so do not now disappoint their hope that the good will prevail, that justice will soon triumph, that freedom will return on the wings of peace to them and to all Your children—through Jesus Christ, our Lord. Amen.

I do not believe that a more fitting tribute could be given to Latvian Independence Day than this beautiful prayer uttered in the House of Representatives this morning and now repeated in the Senate of the United States.

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

Mr. PERCY. I yield.

Mr. STENNIS. Mr. President, I highly commend the Senator on his presentation and for giving us and the people of the world the benefit of the thoughts contained in that very fine prayer.

I recall when Latvia came into being in its present form. I have great admiration for its people, with some of whom I have come in contact since that time. There is great merit, great truth, and great honor to them with respect to their outlook, their viewpoint, their family life, and their Government.

Mr. PERCY. I thank my distinguished colleague very much.

As the former chairman and now the ranking minority member of the Armed Services Committee, he speaks with a tremendous voice of authority in the Senate of the United States on every subject, especially when he speaks on the quest for freedom of all people in the world.

The United States is a beacon of light. Our arms program makes credible our foreign policy; and our foreign policy is such that, though we have won freedom ourselves, we shall always strive to see that other people throughout the world have the same opportunity for freedom; and keeping a strong United States of America is important.

I think it is also important for us to note on the floor of the Senate today a very significant speech just delivered by the President of the United States on arms reduction. START—Strategic Arms Reduction Talks—was inaugurated today, and SALT—Strategic Arms Limitation Talks—is no longer the term for our discussions with the Soviet Union on what should be done about strategic arms in the United States and the Soviet Union. We are going to work toward arms reductions, not just limitations. This was a dramatic, bold presentation by President Reagan.

Mr. President, I am proud to associate myself with the speech delivered by the President this morning, as to the goals, the aims, and the ambitions of our country and our highest priority, arms reduction.

President Reagan's announcement that he has directed Secretary Haig to begin the new strategic arms reduction talks as soon as possible next year is good news. While we must not underestimate the difficulty of the negotiations that lie ahead, I fully expect that the President will achieve an agreement with the Soviet Union that will, for the first time in the nuclear age, provide for genuine reductions in the awesome strategic weaponry deployed by both sides.

I also applaud the President's announcement that the NATO Alliance is prepared to forego the deployment of new land-based, intermediate-range missiles in Europe provided the Soviets agree to scrap their enormously hostile and destabilizing force of SS–20, SS–4, and SS–5 missiles. Taken in full consultation with our NATO Allies, this decision should once and for all reassure the people of Europe and the world that the United States is committed to the pursuit of peace and stability in its relationship with the Soviet Union.

In my opinion, this eminently reasonable NATO offer will appropriately test the Soviets' self-declared dedication to a

peaceful and harmonious relationship with the Western Alliance. I can only hope that the Soviet Union recognizes and acts on this unique opportunity to reverse what otherwise could prove to be another costly spiral in the nuclear arms race.

THE NEED FOR ARMS CONTROL

Mr. CHAFEE. Mr. President, today, I watched with great interest as President Reagan outlined his proposals concerning arms control negotiations with the Soviet Union.

In my view, there is no higher priority for the security of our country and the preservation of peace than the serious pursuit of arms control agreements with the Soviet Union. I was gratified to see that administration is not only moving forward with the talks on medium-range missiles in Geneva later this month, but also intends to begin talks on strategic arms control in early 1982.

The talks on strategic arms are absolutely essential to the ultimate success of the talks on intermediate-range missiles. In that regard, I want to emphasize my firm conviction that both sides should continue their adherence to the unratified SALT II treaty and that we should strive to retain as many of the features of that treaty as possible as a useful basis for "starting" the next round of talks.

President Reagan also made a dramatic proposal today, offering to forgo the deployment of our Pershing II and ground-launched cruise missiles in Europe if the Soviets will dismantle the medium-range missiles they have already deployed.

The proposal represents a positive step toward renewing the arms control process with the Soviet Union. I believe it is more important to renew this process—for strategic as well as medium-range systems—than to emphasize the details of a specific proposal.

Indeed, it is likely that the Soviets will require time to evaluate this proposal. Hard bargaining must be expected, and complete success in the negotiations.

By the same token, we should not anticipate that the talks will necessarily result in no nuclear weapons being deployed. What we can and must expect is that the negotiations begin moving, that they be conducted earnestly and seriously by both sides, and that they lead to a stable balance at the lowest levels possible.

I would like to comment on another aspect of this problem which has great significance. By his statement today, President Reagan has re-emphasized the defensive purpose of our forces in Europe, their role as a deterrent to conflict, and the full commitment of the United States to the security of its NATO allies.

The goal of insuring this deterrence—both conventional and nuclear and at the lowest force levels possible—is a worthy one and one which I fully support.

Recently, we have seen considerable unnecessary confusion in Europe and, unfortunately, in this country regarding our strategy and our commitments, and I believe today's statement should put an end to this confusion. The programs and policies of the United States and its NATO allies are designed to preserve the peace, not to endanger it.

Just as there should be no doubt about our commitment to the security of our allies, there should be no doubt about our willingness to work hard to achieve balanced and fair arms control agreements.

TREATIES

Mr. PERCY. Mr. President, the Senate has before it this morning for advice and consent a total of nine treaties. Seven of these are income tax treaties, one is an estate and gift tax treaty, and the final treaty is an extension of the existing Treaty of Friendship and Cooperation with Spain. I know of no opposition to any of these agreements. They were unanimously approved in the Foreign Relations Committee and have the full support of the Reagan administration. Reports on each of them are available to every member at his desk.

Mr. President, the agreement to extend the 1976 Treaty of Friendship and Cooperation with Spain is a simple 8-month extension of a treaty which was discussed at length in the Senate at the time of its original approval. The treaty recently expired by its own terms and the 8-month period is designed to bridge the period until Spain's formal entry into the North Atlantic Treaty Organization. NATO entry will itself be accompanied by a treaty protocol which requires the advice and consent of the Senate. Thereafter, any particular aspects of our bilateral security relations will be handled by executive agreement under the umbrella of the NATO Treaty.

Mr. President, the eight tax treaties before us are additions and modernizations of the broader network of bilateral tax treaties which the United States maintains to relieve our citizens from the burden of double taxation and excessive withholding rates. They are all relatively routine agreements, with the exception of a few issues in some of them, each of which is treated in the committee reports.

Mr. President, given the number and range of the tax treaties before the Foreign Relations Committee, we have taken special care this year to consult closely with the tax-writing committees of the Congress, both Senate Finance and House Ways and Means; Senator MATHIAS, the chairman of our Subcommittee on International Economic Policy, and I wrote to the leadership of those committees earlier this year asking for their comments not only on the individual treaties before us, but also on the general nature of the tax treaty process. I ask unanimous consent to have printed in the RECORD copies of the letters and statements received from the chairman and other members of those committees, which were of great assistance during the consideration of these agreements by the Committee on Foreign Relations.

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

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., September 24, 1981.

Hon. CHARLES H. PERCY,
Chairman, Senate Committee on Foreign Relations, U.S. Senate, Dirksen Building, Washington, D.C.

DEAR SENATOR PERCY: Thank you for your thoughtful letter inviting the Ways and Means Committee's view on the tax treaties presently pending before the Senate Committee on Foreign Relations. We are enclosing a statement for the Committee's September 24 hearing record which expresses our views on this matter; the Honorable Barber B. Conable, Jr., ranking minority member of the House Ways and Means Committee, joins me in this submission and a supplemental statement of Mr. Conable's is enclosed as well.

We very much appreciate the courtesy you have extended to us by inviting our comment on these treaties. As you have observed, these tax treaties do have a direct impact on our tax system; as such they deserve a careful review by the tax-writing Committees of Congress. While time has not permitted us to consult with the full membership of the Ways and Means Committee, the enclosed statement addresses those provisions of the pending treaties which cause the greatest concern, a concern that we believe will be generally shared by the Committee. In addition, we have taken this opportunity to express our deep frustration with the tax treaty process as it currently exists.

We view our efforts today as but a first step in developing a better understanding with the executive branch on tax treaty policies and in improving the process of negotiation and ratification of tax treaties which amend substantive tax laws and policies. It is our intention to pursue the issues that we have raised in further discussions with Ways and Means Committee members and the Treasury Department. We will make every effort to submit to you expeditiously any further recommendations we may have on these specific treaties since we understand that the Committee would like to schedule a final markup session on these treaties in mid-October.

Once again, thank you for your consideration of our views on this important matter.

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

STATEMENT OF CHAIRMAN ROSTENKOWSKI BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON TAX TREATIES AND PROTOCOLS

Mr. Chairman, I very much appreciate your invitation to submit a statement to the Committee in order to set forth the views of the House Committee on Ways and Means regarding the tax treaties and protocols presently under consideration by the Committee. The Honorable Barber B. Conable, Jr., ranking minority member of the Committee on Ways and Means, concurs with the views expressed herein and is submitting a supplemental statement as well.

The tax treaties before you today raise a number of important tax policy issues and may prove to be precedent-setting, particularly in regard to future tax treaties with developing countries. As such, these tax treaties deserve very thorough consideration by this Committee as well as by the tax-writing Committees of both Houses. Indeed, since these treaties were largely negotiated by the last Administration, I would hope that the Treasury Department will also carefully evaluate these documents and their implications for U.S. treaty policy now and in the future.

Let me state at the outset that I am not satisfied with the process that has evolved for negotiating and ratifying tax treaties. As you are well aware, the Treasury Department has determined, with little or no input from the legislative branch, those countries

with which to negotiate tax treaties and has proceeded to negotiate with those selected countries with virtually no oversight by Congress. The Senate is then presented with a "fait accompli" for ratification. Too often the treaty presented conflicts with or negates the legislative tax policies that we in the tax writing Committees and in Congress have established. Such conflicts are present in some of the treaties before you today.

Also, I am not enthusiastic about the rationale which leads us to adopt a tax treaty with a country just for the sake of having a treaty. Why is it in the interest of the United States to have tax treaties with tax haven countries? Why do we want a concessionary tax treaty with a developing country where there is virtually no U.S. investment to protect or one where there is little potential for double taxation? Today there are several treaties that fall into these categories.

It is unfortunate that a better understanding between the executive and legislative branches on an overall U.S. tax treaty policy has not been developed. The purpose of my testimony today is at least in part to lay the groundwork for a more consultative process in the future. I am hopeful that the bipartisan Congressional approach that we have undertaken today will encourage the Administration to work with us in that regard.

Let me assure you that I am most sensitive to your Constitutional role in this process. But I am also aware that it places a difficult burden on this committee for us to come before you at this stage in the process and say "Please don't report this tax treaty for ratification because it contravenes what we did in the Ways and Means Committee and in the Congress last year!" Yet that is the only recourse we, as a Committee having responsibility for our tax system, are left under the treaty process as it exists today.

Accordingly, it is our intention to pursue further discussions with the members of the Ways and Means Committee and the Treasury Department on these general problems we have with the treaty process and on the specific concerns set forth below with regard to some of these treaties. Clearly the effect in many cases has been to selectively amend legislatively adopted provisions in the Internal Revenue Code; as such the Ways and Means Committee has an unquestionable interest in these provisions. It is our hope that our views can be reconciled with regard to these treaties before you and that we can propose at an early date an improved process for dealing with tax treaties in the future.

With that introduction, let me turn first to the Canadian tax treaty as I realize it is viewed as the major treaty being considered today by this Committee. While the Canadian treaty raises a number of tax policy issues as are discussed in the materials prepared by the Joint Committee on Taxation staff, I will focus on only the most troublesome aspects from the Ways and Means Committee perspective.

Just last year, Ways and Means reported and the Congress approved legislation to tax the capital gains of foreign investors in U.S. real property. The bill applies to dispositions after June 18, 1980, and all appreciation on dispositions coming under the bill is taxable. The bill also specifically recognized the need to coordinate these rules with potentially conflicting tax treaty provisions. Thus, the bill provided that treaty rules would prevail until January 1, 1985; at that time, the new Code rules would override any conflicting treaty provision. This decision was reiterated and refined in the Economic Recovery Tax Act of 1981 where we provided, as a technical amendment, that for treaties signed between January 1, 1981, and January 1, 1985, the treaty rules would apply for a maximum period of two years. I frankly do not know how Congress could make the point any clearer that we intend these Code rules to apply and that this tax is not negotiable.

Nevertheless, we are now presented with a treaty that excludes certain property from the tax—trade or business property—and allows Canadians a step-up in basis to the effective date of the new treaty for purposes of computing taxable gain on their property. Is this just the first step in a series to come of undoing the Foreign Investment in U.S. Real Property Tax Act? If we are to extend such concessions to Canada, I cannot imagine that our other major treaty partners will not demand the same treatment. I note that the Philippines treaty for example overturns the 1980 Act in total. Yet, I cannot fathom what principles of tax equity or of sound treaty policy would justify selective application of these new rules to only the citizens of certain countries. Should we then reconsider the wisdom of these new provisions in whole or in part? Must we override each treaty by new legislation? Or should we ask you to reserve ratification?

This one provision of the Canadian treaty is illustrative of the types of problems many of these treaty provisions pose for the tax writing Committees of Congress. I find this situation a most vexing one, and I confess to my own uncertainty about the appropriate solution, given that such a narrow range of options is available by the time a tax treaty reaches the ratification stage.

The proposed Canadian treaty poses a number of other issues that will concern members of the Ways and Means Committee. The treaty permits certain types of discrimination by Canada against U.S. investors. Yet many members have long objected to and are seeking an end to the Canadian treatment of business expenses for U.S. advertising and broadcasting which discriminates against U.S. taxpayers. We should be ending such discrimination, not endorsing it. In fact, retaliatory legislation may be introduced and considered this Congress in response to Canadian tax discrimination against U.S. television broadcastors.

Further, the treaty's provisions contradict the Code rules and IRS regulations in regard to the foreign tax credit. The Code provides an overall limit on the credit while the treaty applies per-country limitations. The treaty also implies that the rules concerning what taxes are creditable will be amended for Canada. While similar foreign tax credit problems are present in other existing and proposed treaties as well, the Ways and Means Committee is presented with a most difficult situation when the solutions we develop in Committee on such complex questions as these are then selectively amended by various tax treaties. Often this result clearly stems from an attempt to avoid the legislative process. One might well ask what the law actually is on foreign tax credit issues, the answer is, "It depends!"

Finally, the Canadian treaty permits U.S. residents to deduct charitable contributions made to Canadian charities and vice versa. A similar provision is also contained in the proposed treaty with Israel. By determining the U.S. tax treatment of U.S. taxpayers, this provision goes beyond the typical scope of tax treaties, may prove precedent-setting for future treaties and certainly contravenes the provisions in the I.R.C.

As I mentioned earlier, these are not the only troublesome provisions of this treaty, but they are those that cause the most difficulty for the House Ways and Means Committee because they directly conflict with legislative decisions. At the very least, Treasury must offer a persuasive defense of the policies proposed here, and it is our intention to pursue these issues further with the Administration. If it proves necessary, we will submit recommendations to this Committee as expeditiously as possible.

A number of the other proposed treaties contain provisions that represent questionable tax policy from our perspective. I will describe these briefly. As I mentioned above, the Philippines treaty also contravenes the 1980 Act on foreign investors in U.S. real estate. I do not believe the Ways and Means Committee will find a total negation of the 1980 Act acceptable, and we would therefore recommend reserving on this provision of the Philippines treaty. As the Joint Committee on Taxation will discuss, this treaty also contains a major issue of treaty policy in regard to reciprocal exemption of international aircraft operations.

The Israeli treaty, in addition to the concern I expressed earlier about allowing the deduction for charitable contributions to Israeli organizations, contains a troublesome provision on forced loans; the treaty allows compulsory loans to the Israeli government to be treated as income taxes eligible for the U.S. foreign tax credit. When the loans are repaid, they are to be treated as a refund of Israeli taxes and the taxpayer's creditable foreign taxes thereby reduced. As a matter of fact, this amounts to a loan to Israel from the U.S. government. Some may argue that this provision should not be of great concern because Israel no longer requires forced loans. However, the inclusion of such provisions can and does prove precedent-setting. The Morocco treaty has a similar provision on compulsory loans and Morocco still requires such loans of U.S. businesses.

The treaty with Jamaica also contains a provision that would be most controversial in the Ways and Means Committee. A protocol to the treaty extends the North American exception under the foreign convention rules, an exception adopted just last year for U.S. possessions, Canada and Mexico, to include Jamaica. As a result, conventions in Jamaica would be treated as held in the U.S. for tax purposes. Once again the traditional scope of tax treaties is expanded by determining the U.S. tax treatment of U.S. taxpayers. The Jamaican treaty does contain certain provisions of importance to the U.S., such as broad anti-treaty shopping provisions and an agreement to negotiate mutual assistance provisions. Nevertheless, as a matter of tax policy, it is the tax-writing Committees and the Congress that should consider an expanded North American exception; further, if they did agree that an expansion was warranted, I am sure the members would logically consider including a broader group of other Carribean countries. Once again we are troubled by this type of expansion of the scope of typical treaty provisions and it places the tax-writing Committees in a most awkward position.

Earlier, I touched on our difficulties with overriding the foreign tax credit rules by treaty in the context of the Canadian treaty. The proposed protocol with Norway presents an even more controversial issue; the protocol provides a U.S. foreign tax credit for a special tax Norway imposes on submarine petroleum resources. There is little doubt in my mind that this tax would not be considered a creditable income tax in the absence of this provision. As you will recall, a similar provision was included in the UK protocol ratified in 1979 and it too proved controversial. In light of that experience perhaps, the protocol with Norway contains a per country limitation on the credit.

As a tax policy matter, these provisions I have just described in the proposed treaties with Canada, the Philippines, Israel, Morocco, Jamaica and Norway cause me the greatest concern, a concern that I believe the members of the Ways and Means Committee will share. Further, it is somewhat alarming that the Treasury Department is unable to provide us estimates of the expected revenue

losses involved as this information is clearly needed to assist us in evaluating their significance. At this time we would recommend, as noted above, that the provision in the Philippines treaty which overrides the act on foreign investors in U.S. real property be reserved. The other issues I have raised will require additional discussions with Treasury.

Let me turn now to the basic questions posed by tax treaties with developing countries, as illustrated by several of the treaties before you today. Technically all these tax treaties except those with Canada and Norway are with developing countries. As such, we are forced to address the question of what our tax treaty policy should be with developing countries and when it is in the best interest of the U.S. to have such tax treaties in force. As a general rule, I can see no benefit to this country from a tax treaty with a developing country unless (1) there is significant U.S. investment taking place in the treaty country and, as a result, double taxation is occurring that should be resolved by treaty; or, (2) it is determined that the treaty country is being used to abuse or evade U.S. laws, and thus it is in our interest to have strong exchange of information provisions, anti-treaty shopping rules and mutual assistance agreements for law enforcement purposes.

We must recognize at the outset that developing countries have economic interests that differ dramatically from our own. Accordingly, they will want very different provisions in a treaty, provisions that will conflict with the treaty policy positions Treasury has taken in the U.S. model treaty. Developing countries will be most reluctant to forego source-based taxation and as a result, any treaties negotiated with developing countries will vary significantly from the rules we typically insist upon in regard to limitations on source-based taxation. This fact of life is illustrated in the provisions of the proposed treaties with Argentina, Bangladesh, BVI, Egypt, Israel, Jamaica, Malta and Morocco, all of which permit more source-based taxation than typical in U.S. tax treaties.

In addition, such countries will typically want other tax concessions, such as the treatment of forced loans in the Israeli and Moroccan treaties, and they will urge "tax sparing" provisions that represent a very significant departure from U.S., and indeed international, tax policies. "Tax sparing" provisions in essence eliminate all tax, by both countries, on the profits and certain other types of income derived from investments in the treaty country. As an example of this potential problem, the Moroccan treaty is accompanied by an Exchange of Notes in which the U.S. agreed to resume discussions on incorporating a "tax sparing" credit at a later date.

We do not believe that the purpose of a tax treaty or of treaty provisions should be to eliminate all tax on certain activities producing income or profits, and we want to make that position clear to the Treasury Department as they consider future treaties with developing countries. This result is reached, though by a different route, in the proposed treaty with Argentina. Because Argentina has a strict territorial system, they do not tax any foreign source income of their residents. Accordingly, there is no possibility of double taxation from a U.S. tax on U.S. source income accruing to a resident of Argentina. The effect of the treaty then is to totally exempt such U.S. source income from tax. Many of our treaties provide that the U.S. will not forego tax unless the income is subject to tax by the treaty partner, and I do not understand why a similar provision has not been included here.

Frankly, given Argentina's territorial system one could question the need for this treaty at all. The treaty does not measure up under the general rule I have cited. It does not even contain an anti-treaty shopping provision. Finally, its provisions on source-based taxation are among the most egregious of all in this class of treaties. Accordingly, we would recommend that Treasury be required to negotiate these two additional provisions—an anti-treaty shopping provision and one to insure that U.S. tax will not be foregone unless tax is paid to Argentina.

The proposed treaties with Bangladesh and Malta are the other two that I question the need for. There is little if any U.S. investment in these countries and the anti-treaty shopping provision in the treaty with Malta is not as strong as it should be. I hope Treasury will not pursue treaties of this type in the future.

For similar reasons, the proposed treaty with Cyprus was high on my list for severe criticism. In addition, Cyprus is an undisguised tax haven country. I am most relieved that the Administration has withdrawn this treaty and the BVI treaty. Congress cannot countenance tax treaties with haven countries. In fact, I was prepared to recommend that notice of our intent to terminate be given to the BVI, and I would urge this Committee and the Treasury Department to seriously consider this option between now and June 30, 1982, when such notice must be given. The treaty with the Netherlands Antilles should be studied in the same light. I am most skeptical about the wisdom of retaining the present treaties we have with haven countries, and I surely see no reason to invite new treaties with other haven countries.

Finally, I would hope this Committee would place a sunset date on any of these treaties with developing countries that you decide to report for ratification. These treaties are among the first we have negotiated with countries of this type and as such we are breaking new ground. Congress should assure itself that these treaties are of limited duration so that we may reassess them within a reasonable time period. Further, the Administration should consult with this Committee and the tax writing Committees before undertaking further negotiations with other developing countries. We must jointly agree upon some ground rules before proceeding further down this path.

Before closing, I would like to raise some administrative issues that are also worthy of your consideration. Several of the proposed treaties contain broad and unprecedented delegations of authority to the competent authorities of the treaty countries, in essence to the IRS and the foreign tax administrators. The first permits the competent authorities to eliminate double taxation in cases not provided for in the treaty. Under a literal reading, this delegation could be interpreted to include double taxation arising from any source, even state unitary tax systems. Accordingly, the scope of this delegation of authority must be clarified and limited to include only noncontroversial technical matters, not items of substance. The competent authorities are also allowed to increase the dollar amounts specified in the treaties, but no standards are included to guide their actions in this regard. Once again, the intended scope of this delegation must be established.

Finally, there has been an ongoing debate between the House Ways and Means Committee and the Treasury Department concerning Congressional oversight of the administration of treaty provisions by the U.S. competent authority. The standard treaty secrecy clause has been interpreted by the IRS to limit the access to such information to persons directly engaged in the assessment or collection of taxes. IRS, therefore, has not permitted the General Accounting Office, acting as an agent of the Ways and Means Committee, to review competent authority case files.

The Treasury Department has agreed, as a matter of principle, that such access for oversight purposes should be assured. To accomplish this result, Treasury agreed to add the term "administration" to the exchange of information clause as new treaties are negotiated and to clarify the intent of this change with our treaty partners. Further, Treasury agreed to use the mutual agreement process to gain the agreement of our present treaty partners. Still, I am informed by the Joint Committee on Taxation staff that this matter is not clearly resolved in the treaties before you. Therefore, I would urge that the Committee express its support of the need for Congressional oversight in this area and its understanding that our treaty partners will permit GAO access for this purpose when acting as our agent.

In all of these administrative matters I believe, and I hope Treasury will agree, that Senate guidance on the question will be adequate to resolve the matter to the satisfaction of all parties.

With that Mr. Chairman I will conclude, and I thank you again for your invitation and your indulgence. We intend to consult further on the matters I have raised today with members of the Ways and Means Committee and with the Administration. We will make every effort to submit to you in an expeditious fashion any further recommendations we may have on these specific treaties once those consultations are completed.

STATEMENT OF THE HONORABLE BARBER B. CONABLE, JR., BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON TAX TREATIES AND PROTOCOLS, SEPTEMBER 24, 1981

Mr. Chairman, I appreciate your invitation to appear before the Committee today to submit our position regarding the tax treaties and protocols now under consideration. I am in substantial agreement with the statement of my Chairman, Mr. Rostenkowski, and, therefore, I have only a few brief, supplementary remarks.

My primary interest is in the tax treaty and protocol process itself. In recent years, the treaty network of the United States has been substantially expanded. This has caused increasing concern on the part of many members of the Committee on Ways and Means because, as a result, the treaty process has become the equivalent of substantive tax legislation, an area clearly within this jurisdiction of our Committee. Mr. Rostenkowski has well highlighted the extent to which the treaties under consideration here contravene specific tax legislation which previously, and in some cases recently, has been approved by our Committee and the Congress. Therefore, my remarks will center on what I see as a disturbing trend in the treaty process.

This development is significant for several reasons. First, the potential of tax treaties for adversely modifying United States tax policy has been increased greatly. Second, the overall revenue impact of tax treaties is growing. Third, the potential for permitting foreign competitors of U.S. businesses to obtain treaty shopping benefits which afford them an unfair advantage over U.S. businesses is becoming greater. Finally, and most important, the expansion of the tax treaty network is, in effect transferring Congressional authority, in tax legislation, to Treasury officials who are responsible for negotiating the treaties. The trend looms even more importantly because there is little or no oversight conducted to monitor either the development or implementation of these treaties.

In view of these concerns, I believe two alternatives should be given serious consideration. First, attention could be given to the possibility of modifying the treaty

process to allow a greater role for the tax writing committees of the Congress. This could make it easier to avoid inconsistencies between provisions of the tax treaties and overall U.S. tax policy and to more clearly modify actual implementation of the treaties.

Second, attention also could be given to modifying the provisions of the internal revenue code which deal with tax treaty provisions in order to prevent treaties from overriding basic U.S. tax policy established through the Code.

Thank you for the opportunity to testify before your Committee today.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., October 8, 1981.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your gracious invitation to present my views to the Foreign Relations Committee on the tax treaties currently pending before it. I understand that Senator Long, the ranking minority member of the Finance Committee, may also respond to your invitation. Your invitation, and the similar invitation you extended to the Chairman and ranking minority member of the Ways and Means Committee, may serve as the catalyst for needed improvement in the process by which the Senate renders its advice and consent to tax treaties.

THE TREATY PROCESS

In implementing their objectives, tax treaties inevitably modify the tax rules and policies established by the Congress and embodied in the Internal Revenue Code. Indeed, the Code itself recognizes this in providing in sections 894 and 7852(d) that treaty provisions may override statutory provisions.

However, the displacement of the policies established in the Code by the sometimes conflicting policies established through the tax treaty process gives me, as a member who devotes considerable time and energy to the tax legislative process, cause for some concern. Particularly as the United States tax treaty network grows and as tax treaties become more detailed and complex, this concern regarding the possible conflicts between the tax legislative process and the tax treaty process can only increase.

Your solicitation of the involvement of the tax-legislation-writing committees in the tax treaty process is a helpful first step in allaying those concerns. Precisely because a number of the pending treaties present possible conflicts with tax issues either presently of concern to the members of the Finance Committee or recently the subject of carefully considered tax legislation, your invitation in this instance is most welcome. Because all 20 members of the Finance Committee have an interest in minimizing the conflicts between the tax legislative process and the tax treaty process, however, and because this submission cannot purport to reflect all the members' views, I have suggested to the other members that they may wish to communicate their views to you separately.

Equally important, further initiatives to improve the coordination of the tax legislative process with the tax treaty process will come, I hope, from the Department of Treasury. Such initiatives should include, at a minimum, consultation with the chairmen of the Foreign Relations Committee and the Finance and Ways and Means Committees at several stages of the treaty negotiation process.

First, before negotiations are commenced, I suggest that the Treasury notify Congress regarding the reasons for seeking a new tax treaty. In the case of a protocol to an existing treaty or a treaty to replace an existing treaty, such notification ought to include an explanation of the specific provisions of the extant treaty and U.S. or foreign law, and an explanation of any changed economic conditions, which together may give rise to the need for a revised treaty. Further, the Treasury might provide Congress a description of the goals hoped to be achieved through the adoption of a new treaty or protocol. For treaties with nations with whom we have no existing tax treaty such notification should include a description of the problems U.S. taxpayers may experience in commercial and other contacts with the other nation's taxing jurisdiction, the commercial activity that might be fostered by such a treaty, and what interests of the U.S. might be served by promoting trade with or investment between the U.S. and the other nation. In the present group of treaties, some early explanation of the goals to be achieved through tax treaties with developing countries with whom U.S. taxpayers have minimal commercial contacts would have cleared up a number of questions.

Second, once negotiations have commenced, periodic consultation with Congress regarding progress, problems, and the choices among options in the treaty negotiation process could facilitate the process of later Senate ratification. I understand that such consultation is often sought in the case of treaties outside of the tax area. While we all wish not to "politicize" every issue under negotiation some level of contact would be desirable. The need for Senate recommendations, clarifications, or even possible reservations regarding some of the pending treaties could have been obviated by even the most cursory level of communication between Congress and the Treasury during the negotiation stage.

Third, the Treasury should find it useful during the tax legislative process itself, to keep the tax-writing committees abreast of the impact of pending legislation on ongoing treaty negotiations. Recent legislative decisions in the real property and foreign convention areas, for instance, might have been better informed had the decision-makers been fully aware of the status and substance of ongoing treaty negotiations, particularly those with Canada. Coordination between treaty negotiators and those involved in the tax legislative process could avoid the development of conflicting provisions.

REVENUE EFFECT

For the Senate to give its informed advice and consent to these treaties, particularly in these days when budget questions loom large on every front, it will be necessary to obtain a more-than-speculative indication of the revenue impact of these treaties. Especially where a treaty or protocol deems a foreign tax creditable against U.S. tax which, under the Code, would not be creditable, some more-than-negligible loss to the Treasury may be involved. I recommend, therefore, that the Foreign Relations Committee withhold further action on any of the treaties until detailed revenue estimates are supplied regarding each of the pending treaties.

FOREIGN INVESTMENT IN U.S. REAL PROPERTY

As part of the Omnibus Reconciliation Act of 1980, Congress enacted the Foreign Investment in U.S. Real Property Tax Act (FIRPTA), a statute designed to tax the disposition of direct or indirect investments in U.S. real property by nonresident aliens and foreign corporations. The members of the Finance Committee took a great deal of interest in developing this legislation in response to popular insistence that foreign investment in U.S. real property bear at least the same tax burdens as domestic investment. It was not without some difficulty that these concerns were balanced against desires not to discourage foreign investment in the United States for unwarranted reasons. Several of the pending treaties, however, seem to disrupt the balance struck by that legislation.

One such disruption is the application of the nondiscrimination article of several treaties. FIRPTA clearly indicated that the statute would override existing treaties, on this and any other conflicting points. It was expected that new treaties would specifically state whether or not FIRPTA overrode conflicting treaty provisions; many members expected that new treaties would specifically state that FIRPTA always overrode possibly conflicting treaty provisions. Several treaties do not make such a statement. I recommend, therefore, that approval of the treaties be subject to the explicit understanding that the treaty nondiscrimination provisions do not override FIRPTA. This is, we understand, consistent with Treasury's interpretation.

Several treaties cede substantial portions of the taxing jurisdiction asserted by FIRPTA. Both the Canadian and the Argentine treaties alter the statutory method for determining whether an entity is a U.S. real property holding organization by excluding trade or business property from real property. Second, a number of the treaties treat partnerships, trusts, and estates as entities rather than conduits for the purposes of determining whether and when a nonresident alien will be treated as making a taxable disposition of a U.S. real property interest.

Third, the Canadian treaty includes a provision which prevents either country from taxing gains on the sale of real property holding companies by residents of the other unless the other country would tax foreign investors on their real property holding companies in comparable circumstances. Fourth, the Canadian treaty uses a different standard than that provided by FIRPTA for determining whether a Canadian shareholder of a real property holding organization is taxed on the sale of his interest.

Each of these items appears to run contrary to our intent in enacting FIRPTA and, if accepted, would constitute significant concessions of U.S. taxing jurisdiction. Because the combined effect of these concessions may be to undermine the thrust and efficacy of FIRPTA, particularly in the case of the Canadian treaty, I recommend that a full explanation of the rationale for these concessions be provided before the committee approves these treaties.

It is understood that many of these items which today constitute concessions of U.S. taxing jurisdiction, may have been less significant if considered prior to FIRPTA's enactment. In light of FIRPTA, therefore, and in light of considerable sentiment that the taxes imposed by FIRPTA are not to be bargained away, the Treasury may wish to approach the Canadians to renegotiate these points.

The Canadian treaty also overrides FIRPTA in permitting a step-up in basis for Canadian-owned U.S. real property to the effective date of the new treaty. It is understood that this provision is designed to avoid a substantial number of sales and repurchases of property prior to the effective date of the new treaty. Generally, the gain on such sales would be protected from taxation under the present treaty. While this provision may be appropriate in Canada's case because of this unique provision in the existing treaty, we suggest that it will not be considered appropriate in future treaties with Canada or other countries.

The Philippine treaty completely overrides the FIRPTA provisions regarding the taxation of the disposition of an interest in a U.S. real property holding organization. I recognize that this provision was negotiated long before the enactment of FIRPTA. Further, the lack of any anti-treaty shopping

provision in the Philippine treaty could permit the abuse of the FIRPTA override by third country nationals. For these reasons I recommend that the Senate specifically reserve its consent to the Philippine treaty on this issue.

EXPANDED DEDUCTION FOR U.S. TAXPAYERS

Historically, the purposes for entering tax treaties have been the elimination of double taxation and the facilitation of administrative cooperation. Three treaties (Canada, Israel, and Jamaica) go beyond this circumscribed realm to grant to U.S. taxpayers deductions they would not enjoy in the treaty's absence. The Canadian and Israeli treaties permit U.S. taxpayers to take a deduction for contributions to a charitable organization in the other country. The Canadian treaty and the Jamaican protocol contain provisions permitting a U.S. person to deduct the expenses of attending a business convention in those countries.

I find these provisions particularly troubling. First, the granting of new deductions to U.S. taxpayers, even where the other country's taxpayers receive similar deductions, does not seem to be an appropriate treaty function. Particularly, as in the extension of the convention deduction to Jamaica, where Congress specified precisely which of our North American neighbors were to be included within the convention deduction rule's scope, it is inappropriate for a treaty to override Congress's specific intent. Because some Finance Committee members have expressed serious concern over this provision, I urge you to examine the Jamaican protocol with great care. Congress itself, of course, concluded that this deduction is appropriate for conventions in Canada. Had it not, the Canadian treaty provision would be similarly troublesome.

Second, there is concern whether the treaty process should be used to create support, on a selective basis, for foreign charities. While the provision in the Canadian treaty, similar to a provision in our existing treaty, may be justified by the special relationship we enjoy with that neighbor, the possibility that we could be perceived as discriminating among the charities of the world, and the effect that establishing this precedent may have on negotiations with other nations, should give us reason to question these provisions.

FOREIGN TAX CREDIT

The question of what foreign taxes are creditable against U.S. tax has, for several years now, been the subject of substantial controversy. Several versions of the section 901 regulations that have been proposed have been subjected to substantial criticism by affected taxpayers.

Some taxpayers maintain that the regulations adopt an overly restrictive interpretation of the statute so that the credit issue may be preserved for treaty negotiations. Taxpayers also complain that requests for IRS rulings receive no action and suspect similar motives to explain the IRS inaction.

I am sympathetic with the plight of taxpayers who do not know whether the foreign tax they pay is creditable or not. This issue ought to be addressed administratively, by regulation or ruling, or, if necessary, by legislation. Because the issue deals with a tax benefit to be enjoyed by U.S. taxpayers that is granted unilaterally, requiring no action by the foreign country, I believe that the granting of a credit for an otherwise clearly uncreditable foreign tax or levy is an inappropriate subject for the typical tax treaty.

Particularly where, as in the Moroccan and Israeli "forced loan" situations, the foreign levy deemed creditable against U.S. tax is quite distinct from an income, war profits, or excess profits tax (or a tax assessed in lieu of such a tax), the treaty process appears to interfere with a clear legislative decision. If it is concluded, in any instance, that the treaty process is an appropriate forum for designating a foreign levy creditable against U.S. tax, I trust, at the least, that the negotiators will recognize that the decision that a foreign levy is creditable, while a benefit to U.S. taxpayers, is a detriment to the U.S. Treasury and should be regarded as a significant U.S. concession.

DISCRIMINATION

It is unfortunate whenever a tax treaty, particularly one with a developed country, fails to resolve tax discrimination problems between the treaty partners. The dispute with Canada over C–58, Canada's indirect tax discrimination against U.S. broadcasters, is exactly the sort of dispute it was hoped the new Canadian treaty would resolve. I am disappointed that the new treaty, at the insistence of the Canadians, ignores this dispute. In weighing whether you will favorably report the Canadian treaty, we hope you will include the need for a prompt resolution of this dispute in your calculus of benefits versus detriments.

COMPETENT AUTHORITY DISCRETION

Consistent with preserving the Senate's right to advise and consent regarding tax treaty measures, your committee may wish to develop specific standards to circumscribe the power delegated to the IRS under several treaties to expand taxing jurisdiction by adjusting amounts expressed in currency and by resolving disputes outside the scope of a treaty. The Finance Committee would be happy to work with you in the development of such standards if you desire.

It is also important that Congress and the General Accounting Office not be precluded from access to mutual agreement case files in the possession of the competent authority. Your report, I understand, will make this point clear.

TAX HAVENS

The Treasury's decision to withdraw from consideration the treaties with the British Virgin Islands and with Cyprus is to be applauded. Until satisfactorily strict anti-treaty shopping provisions, similar to the one in the Jamaican protocol, are included in those treaties, their progress through the ratification process will be justifiably difficult.

In conclusion, I wish again to reiterate my thanks for your solicitation of Finance Committee views. Your attentiveness to the concerns of the Finance Committee and the cooperation your staff has shown in accommodating our efforts are essential first steps at improving the coordination of the tax treaty and the tax legislation processes. I would be pleased to have you include this letter in the record of your committee's hearing on September 24, and I look forward to working with you further on this matter.

Sincerely,

BOB DOLE, *Chairman.*

U.S. SENATE,
Washington, D.C., October 26, 1981.

Hon. CHARLES PERCY,
Hon. CHARLES MATHIAS,
Committee on Foreign Relations, Dirksen Senate Office Building, Washington, D.C.

DEAR CHUCK AND MAC: Thank you very much for soliciting the comments of members of the Senate Finance Committee on the tax treaties pending before the Committee on Foreign Relations. Your consideration of our views is greatly appreciated.

At the outset, I'd like to support the views stated in the letter to you from Senator Dole. He has eloquently expressed many of my concerns.

There are two issues of particular concern to me: first, the apparent override in many of the treaties of the Foreign Investment in Real Property Tax Act (FIRPTA); second, the failure to authorize the General Accounting Office's access to information received under the treaties.

As a member of the House, I was actively involved in the passage of FIRPTA. Adherence to the provisions of FIRPTA is a very important issue to me and the 2.8 million Iowans I represent. Our intention in enacting FIRPTA was to treat the capital gains recognition of foreigners and United States citizens similarly. In passing that legislation, Congress expected our treaty negotiations to honor the provisions of FIRPTA in new tax treaties. Technical changes negotiated in the Canadian, Argentine, Egyptian and Philippine treaties run contrary to that intent. These are serious precedents which undermine the spirit of FIRPTA. While Canada and the United States enjoy a special relationship, this does not seem a compelling reason to ignore all of the guidance set forth in the legislation. With respect to other treaties, I can see no reason at all to deviate from FIRPTA. I believe the treaties should be made consistent with FIRPTA, and I strongly recommend you report these out with a reservation that the treaties conform to FIRPTA.

My second difficulty with these treaties is their failure to expressly state that the appropriate Congressional committees, and the General Accounting Office, as their agent, have appropriate access to information exchanged under the treaties. As you are aware, the IRS has taken the position that the secrecy clause in most existing treaties denies GAO access to mutual agreement casefiles. Treasury has indicated that future treaties would specifically provide for GAO access, but most of the treaties before your committee would not do so. I respectfully request that you take whatever steps are necessary to insure that we do have access to tax information exchanged under these treaties within the boundaries of Internal Revenue Code Section 6103. As Chairman of the Subcommittee on Oversight of the Internal Revenue Service, I believe that the inclusion of this provision is very important if Congress is to effectively oversee the administration of the treaties.

Thank you for your consideration of my concern and suggestions.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. PERCY. Mr. President, specifically, we have taken account of the concerns expressed on some of the provisions in these agreements by recommending appropriate amendments, reservations, understandings, and report language. These are incorporated in the proposed resolutions of ratification pending before the Senate. Most of them are quite technical and none is expected to present serious problems for the other countries concerned.

Finally, Mr. President, we have sought to establish a broader understanding with the Department of Treasury regarding the process of negotiating future tax treaties, and in particular the timing and nature of consultations with the Foreign Relations Committee and the tax-writing committees. We expect by an exchange of letters with Treasury Secretary Regan to clarify that process in the near future. Already our consultations have been productive and informative and I anticipate no difficulty in regularizing this process.

In addition to the correspondence already referred to, I ask unanimous consent to have printed in the RECORD a brief summary of the various amendments, reservations, and understandings

included in the proposed resolutions of ratification of each of the tax treaties.

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

SUMMARY OF PROPOSED CONDITIONS IN TAX TREATIES

All eight of the resolutions of ratification reported by the Committee on the tax treaties contain an understanding regarding Congressional access to the information exchanged under the treaty. The understanding makes clear that the General Accounting Office, the Senate Finance Committee, the House Ways and Means Committee and the Joint Committee on Taxation will be afforded access for the exercise of their oversight responsibilities.

In addition to that understanding, the following resolutions of ratification contain further conditions:

BANGLADESH

An understanding to make clear that U.S. shipping operations would be afforded "most-favored nation" treatment by Bangladesh.

EGYPT

A reservation making clear that the treaty will not supercede the U.S. Foreign Investment in Real Property Taxation Act of 1980.

MALTA

An amendment to correct a technical error concerning the so-called "second withholding tax."

MOROCCO

A reservation making clear that U.S. foreign tax credits granted under the treaty for loans which U.S. businesses are required to make shall not be granted after 1988. This "sunset provision" would parallel a similar provision in the Protocol with Israel.

Mr. PERCY. Mr. President, I recommend that the Senate give its advice and consent to all of the treaties under consideration.

CONCLUSION OF MORNING BUSINESS

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

EXECUTIVE SESSION

TREATIES

The PRESIDING OFFICER. Under the previous order, the hour of 11:30 having arrived, the Senate will now go into executive session to conduct one rollcall vote to count as nine rollcall votes on the resolutions of ratification to nine treaties, Executive Calendar Nos. 11 through 19, which the clerk will state.

The legislative clerk read as follows:

Treaty Doc. No. 97-20, an Agreement extending for 8 months provisions of the Treaty of Friendship and Cooperation with Spain; Ex. Y, 96-2, a Tax Convention with the People's Republic of Bangladesh; Ex. U, 96-2, a Tax Convention with the Arab Republic of Egypt; Treaty Doc. No. 97-1, a Tax Convention with the Federal Republic of Germany; Ex. C, 94-2, a Tax Convention with the State of Israel; Ex. M, 96-2, a Protocol amending the 1975 Tax Convention with Israel; Ex. F, 96-2, an Income Tax Treaty with the Republic of Malta; Ex. H, 95-2, a Tax Convention with the Kingdom of Morocco; and Ex. Z, 96-2, a Protocol amending the 1971 Tax Convention with the Kingdom of Norway.

The PRESIDING OFFICER. The question is on agreeing to the resolutions of ratification.

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

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

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

The yeas and nays resulted—yeas 97, nays 0, as follows:

[Rollcall Vote No. 384—Treaty Doc. No. 97-20,
385—Ex. Y—96-2,
386—Ex. U—96-2,
387—Treaty Doc. No. 97-1,
388—Ex. C—94-2,
389—Ex. M—96-2,
390—Ex. E—96-2,
391—Ex. H—95-2, and
392—Ex. Z—96-2]

YEAS—97

Abdnor	Ford	Moynihan
Andrews	Garn	Murkowski
Armstrong	Glenn	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Packwood
Bentsen	Hart	Pell
Biden	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hawkins	Proxmire
Bradley	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Rudman
Chafee	Humphrey	Sarbanes
Chiles	Inouye	Sasser
Cochran	Jackson	Schmitt
Cohen	Jepsen	Simpson
Cranston	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Laxalt	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Weicker
East	Melcher	Williams
Exon	Metzenbaum	Zorinsky
	Mitchell	

NOT VOTING—3

Goldwater	Kennedy	Leahy

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

RESOLUTIONS OF RATIFICATION

AGREEMENT EXTENDING FOR 8 MONTHS PROVISIONS OF THE TREATY OF FRIENDSHIP AND COOPERATION WITH SPAIN

Resolved, (two-thirds of the Senators present concurring therein). That the Senate advise and consent to the ratification of the Agreement Extending for Eight Months Provisions of the Treaty of Friendship and Cooperation with Spain, effected by an exchange of notes at Madrid on September 4, 1981.

TAX CONVENTION WITH THE PEOPLE'S REPUBLIC OF BANGLADESH

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention with the People's Republic of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Dacca on October 6, 1980 (Ex. Y, 96th Cong., 2d session), subject to the following:

(1) understanding that if the Government of Bangladesh agrees in treaties or other agreements with other countries to reductions in a tax at source on profits from the operation of ships in international traffic, the Government of Bangladesh agrees to reopen negotiations with the United States with a view to the conclusion of a protocol which would extend to residents of the United States deriving such profits the same treatment granted to residents of such other countries.

(2) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

TAX CONVENTION WITH THE ARAB REPUBLIC OF EGYPT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention with the Arab Republic of Egypt for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Cairo on August 24, 1980 (Ex. U. 96th Cong., 2nd session), subject to the following:

(1) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

(2) reservation that notwithstanding the provisions of paragraph (3) of Article 7 of the convention (which relates to the taxation of gains from the alienation of shares of a corporation or of an interest in a partnership, estate, or trust, the property of which consists, directly or indirectly, principally of real property situated in one of the countries), gain derived by a resident of a Contracting State, from the alienation or other disposition of an interest in a corporation, or an interest in a partnership, trust, or estate, which has an interest in real property located in the other Contracting State, or the assets of which are considered under the domestic law of that other Contracting State to consist, in whole or in part, of real property, or an interest therein, in that other State, may be taxed by that other State to the extent provided for by its domestic law. In addition, gain derived by a corporation which is a resident of a Contracting State upon the distribution (including a distribution in liquidation or otherwise) of an interest in real property (as determined under the domestic law of the other Contracting State) may be taxed by that other Contracting State to the extent provided for by its domestic law.

TAX CONVENTION WITH THE FEDERAL REPUBLIC OF GERMANY

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Tax Convention with the Federal Republic of Germany, signed at Bonn on December 3, 1980 (Treaty Document 97-1), subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities subject only to the limitations and procedures of the Internal Revenue Code.

TAX CONVENTION WITH THE STATE OF ISRAEL

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention signed at Washington on November 20, 1975, between the Government of the United States of America and the Government of the State of Israel with Respect to Taxes on Income (Ex. C, 94th Cong., 2nd session), subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

PROTOCOL AMENDING THE 1975 TAX CONVENTION WITH ISRAEL

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Income Tax Convention with Israel (Ex. M, 96th Cong., 2nd session), subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this protocol where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

INCOME TAX TREATY WITH THE REPUBLIC OF MALTA

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty with the Republic of Malta with Respect to Taxes on Income, signed at Valletta on March 21, 1980, subject to the following:

(1) amendment to paragraph 5(c) of Article 10 of the Treaty, so as to read as follows:

"(c) the dividends are paid out of profits attributable to one or more permanent establishments of such company in that State, provided that the gross income of the company attributable to such permanent establishment constituted at least 50 percent of the company's gross income from all sources."

(2) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

TAX CONVENTION WITH THE KINGDOM OF MOROCCO

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Tax Convention with the Kingdom of Morocco, signed at Rabat on August 1, 1977, together with a related exchange of notes (Ex. H, 95th Cong., 2nd session), subject to the following:

(1) reservation that foreign tax credits shall not be allowed after January 1, 1988, for loans which U.S. taxpayers are required to make to the Government of the Kingdom of Morocco.

(2) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

PROTOCOL AMENDING THE 1971 TAX CONVENTION WITH THE KINGDOM OF NORWAY

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol Amending the Tax Convention with the Kingdom of Norway (signed at Oslo on December 3, 1971), which Protocol was signed at Oslo on September 19, 1980 (Ex. Z, 96th Cong., 2nd session), subject to the understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

(Later the following occurred:)

Mr. BAKER. Mr. President, it has been brought to my attention that there was not a motion to reconsider or a tabling motion with respect thereto after the resolutions of ratification were adopted on the treaties. I now move, as in executive session, to reconsider the vote by which the resolutions of ratification were adopted.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session and resume consideration of H.R. 4169, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4169) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

VOTE—AMENDMENT NO. 633

The PRESIDING OFFICER. Under the previous order, without intervening motion, appeal, or debate, the Senate will now proceed to vote on amendment No. 633 of the Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

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

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 393 Leg.]

YEAS—58

Abdnor	D'Amato	Hatch
Andrews	DeConcini	Hawkins
Armstrong	Denton	Hayakawa
Baker	Dixon	Heflin
Bentsen	Dole	Helms
Boren	Domenici	Hollings
Byrd, Harry F., Jr.	Durenberger	Humphrey
Byrd, Robert C.	East	Jepsen
Cannon	Eagleton	Johnston
Chiles	Ford	Kassebaum
Cochran	Garn	Kasten
Long	Grassley	Laxalt
Lugar	Pressler	Stennis
Mattingly	Proxmire	Stevens
McClure	Quayle	Symms
Melcher	Randolph	Thurmond
Murkowski	Roth	Wallop
Nickles	Sasser	Warner
Nunn	Schmitt	Zorinsky
	Simpson	

NAYS—38

Baucus	Gorton	Packwood
Biden	Hart	Pell
Boschwitz	Hatfield	Percy
Bradley	Heinz	Pryor
Bumpers	Huddleston	Riegle
Burdick	Inouye	Rudman
Chafee	Jackson	Sarbanes
Cohen	Levin	Specter
Cranston	Mathias	Stafford
Danforth	Matsunaga	Tsongas
Dodd	Metzenbaum	Weicker
Eagleton	Mitchell	Williams
Glenn	Moynihan	

NOT VOTING—4

Goldwater	Leahy	Tower
Kennedy		

So Mr. HELMS' amendment (No. 633) was agreed to.

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

Mr. BAKER. Mr. President, 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 Connecticut is recognized.

Mr. WEICKER. Mr. President, as I indicated, because of the actions taken by the Senate, there certainly is much to discuss in a constitutional respect. I think it should be pointed out that which is the duty of the committee—that is, the appropriate funding of the Departments of State, Justice, Commerce, the Judiciary, and related agencies—has been attended to both by the subcommittee and by the full committee and by action here, on the floor of the U.S. Senate.

Our work is done. I know of no other amendments that affect the job that we were given to do as a subcommittee, that the ranking member and the chairman were given to do. Apparently, there is not enough business in the Committee on the Judiciary. Instead, they feel that whatever legislation is needed has to be achieved within the scope of the Committee on Appropriations.

Mr. President, nobody on the outside is doing a number on the Senate; we are doing a number on ourselves.

Mr. THURMOND. Will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. Since the Senator mentioned not enough work to do in the Judiciary, I just want to mention that we have plenty of work to do in the Judiciary. We are very busily engaged in our nine subcommittees, turning out a lot of bills and legislation. However, any Senator has a right to bring up anything on the floor that he wants to. I am sure the Senator understood that the bill he referred to and now the amendment are the will of the Senate.

Mr. WEICKER. I say to my good friend from South Carolina that I do not understand how it is that he and some of his conferees here on the Senate floor have managed to take the appropriations process and so convolute it

that we cannot get any business done. If, indeed, the good Senator from South Carolina wants to change the laws of this Nation as they apply to busing, as they apply to abortion, as they apply to prayer in schools, may I suggest that there is an appropriate procedure which has been used for hundreds of years, namely the authorizing process. Legislation of that kind would come through his committee and could be brought up here, on the Senate floor, to be voted on. But that is not done. Apparently, that process and the constitutional amending process take too long for the Senator from South Carolina.

So, instead, we shall go ahead and take the appropriations process, which is meant to deal with dollars—not general policy but dollars—and use it as a vehicle to circumvent the Constitution of the United States and to circumvent the regular legislative process.

I say to the Senator, I am delighted that he raised this issue, because I have not seen anything on the floor of the Senate coming out of the Senator's committee relating to any of these matters. All of a sudden, it is a sort of ad hoc situation, where members of his committee come out here and try to slap this stuff on appropriations bills.

Mr. THURMOND. Will the Senator yield?

Mr. WEICKER. I think if, indeed, there is criticism by the American people as to what Congress is doing with the spending of their money, do not blame the President, do not blame the House, let us blame the fact that the appropriations process has been brought to a dead halt by this type of social legislation.

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

Mr. WEICKER. Sure, I yield, Mr. President.

Mr. THURMOND. Mr. President, I just want to say to the distinguished Senator from Connecticut that any Senator has a right under the rules to bring up these matters and if a Senator does bring it up, I am sure that the Senator from Connecticut cannot object. If a Senator does bring it up, I am sure Senators can object. If enough Senators vote for a measure, that is the will of the Senate, and that is what has been done here. The majority has voted to have voluntary prayer in schools.

If there is any obstruction here, it is on the part of the Senator from Connecticut, not on the part of the Senator from North Carolina or the Senator from South Carolina.

Mr. WEICKER. I say to the Senator that we did our best in the committee to make sure these issues would not come up, believing, rather, that they should properly come forth from the committee of the Senator from South Carolina, but they are not here through his committee. I look forward to such legislation being presented to the U.S. Senate.

Obviously, I am going to be in opposition, but I have no complaints coming if I lose on that matter. That is another story entirely. What worries me is the utilization and abuse of the appropriations process.

Admittedly, this did not start with the Senator from North Carolina or the Senator from South Carolina. It started many years ago. But it has reached epidemic proportions, to the point that no appropriations bill can now clear the floor.

The net result is that we are going from continuing resolution to continuing resolution. I have been informed by the leader that he intends to bring up the Department of Justice authorization bill, and we will have a lot to discuss on that matter. We will have many votes and try to resolve those issue. But at least nothing else is being harmed in that process. What is being harmed right now is the functioning of the entire Government.

Do I realize that everybody is within their rights? Everybody is certainly within their rights. Anybody can do whatever they want on the Senate floor. That does not mean it necessarily leads to the most expeditious handling of our Government.

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

Mr. WEICKER. I yield.

Mr. HELMS. I thank my friend from Connecticut.

I say this in the kindest and most affectionate way to my distinguished friend: I think the complaints about legislating on appropriation bills depends on whose ox is being gored. Did the Senator not have authorization language on the appropriation bill with reference to the Legal Services Corporation?

Mr. WEICKER. Only in response to the fact that the House had placed that language on the bill. The restrictions had been placed on by the House, and we had to respond to it. The restrictions placed on it were not the restrictions of the Senator from Connecticut. Given the choice between a dozen restrictions and four restrictions, we opted for four restrictions. None of the restrictions was recommended by the Senator from Connecticut.

Mr. HELMS. Nonetheless, the Senator did have authorization language on an appropriations bill.

Mr. WEICKER. No. That language was actually the language of the distinguished Senator from Florida (Mr. CHILES).

Mr. HELMS. Who was listed as the sponsor of it?

Mr. WEICKER. It is a committee bill. There is nothing I can do, as the chairman of the committee, when these matters are on there.

Mr. HELMS. How about the legislation itself?

Mr. WEICKER. I did not offer it. I might add that it is an Appropriations Committee bill, voted by the full Appropriations Committee. The language the Senator refers to was voted by the full Appropriations Committee. I am obliged, when I come out here, as the chairman, to represent the position of the committee. I say to the Senator now that my position in the committee was no restrictions. Then we had the House position, which was articulated by the Senator from North Carolina, which had many restrictions, and then we had the midway point, which was the position of the Senator from Florida, which was four or five restrictions, whatever it was. My position was zero restrictions.

Mr. HELMS. In any case, the Senator did support authorization language, for whatever purpose.

Let me say this, if my friend from Connecticut will yield further: I think the U.S. Senate should legislate in any way it can in the best interests of the American people.

The Senator may not agree on this issue or that issue. But I do not hold any reverence for the concept around here that we must not have legislation here or legislation there because it might inconvenience the appropriations process, or whatever. I think we need to do what the majority of the Senate decides is in the best interests of the American people.

I say again that the Senator may disagree. The Senator very frequently refers to one measure or another or one amendment or another as unconstitutional. Well, that is his view of it. But I was puzzled the other day when he repeatedly said that this prayer amendment that came from the House, as he has stated, was unconstitutional. I imagine that he is talking about the Bill of Rights and the first amendment.

I call the Senator's attention to the fact that the Bill of Rights was not adopted for the purpose of locking in the authorities and powers of the Federal Government. It was to reserve powers and rights to the States, and that is what the House said with its amendment, and that is the reason I pressed for it.

I thank the Senator for yielding.

Mr. WEICKER. In response to the Senator, I say that I have no problem with the legislating that is going on. I do not fault it until it reaches the point where it totally obviates the entire process.

Since I have been on the committee—certainly in the last several years—these types of amendments have been put on appropriations bills. That is plenty of time, it seems to me, for the Judiciary Committee, now that it is under the astute leadership of the distinguished Senator from South Carolina, to get its act together and get the legislation on the floor.

In the past, those of us on this side of the aisle could blame the Democrats for not proposing legislation. Now we have no one to blame but ourselves.

There is nothing to prevent any of these matters being presented by the Judiciary Committee, by the committee bringing its bills to the floor. I see no bills on the floor. We are going to use either appropriations bills or authorization bills to do a job that is better done in a more orderly way.

I say to the Senator that I am not a nitpicker. Frankly, I realize that there are going to be extraordinary occasions which demand that the appropriations process be used for legislative ends.

But when it happens time in and time out, day in and day out, on every occasion, clearly, then, somebody is not doing their job.

Our job is done. The Senator from South Carolina and the Senator from Connecticut and the members of the Appriations Subcommittee have done our

job. Now it has all gone for naught, while we sit here hung up on a couple of points which should have stood on their own feet, as a matter of their own debate, as a matter of their own legislation. This bill is going onto a continuing resolution. All this time will have been lost and nobody regrets it more than I do.

Perhaps what we should do is that the next time we have an agriculture bill here, we should spend our time discussing extraneous matters to tack onto it. I do not think that is the way matters should be handled.

I fully understand that nothing is going to change from what I say, but I just think it important to point out—and this is where I started my comments—that these very important agencies of Government are not getting the legislative treatment they deserve in terms of their appropriations. That cannot be laid at the door of the Senator from South Carolina or the Senator from Connecticut, who have managed this appropriations process for close on to 6 months.

Mr. HELMS. Let me ask the Senator this, if he will yield.

Mr. WEICKER. I yield.

Mr. HELMS. Why does the Senator not go to third reading now, instead of belaboring the subject?

Mr. WEICKER. Because what has happened is that, using this bill as a vehicle, and without any hearings on the matter, without any committee deliberation, without any subcommittee deliberation, we just tack on a few words effecting an attempted, enormous constitutional change.

Let me say this, that it is very easy for me to say, just as the Senator alluded to, let us let the courts handle this hot potato, and let the President handle this hot potato.

The Senator knows what happens. The courts handle it, and then Senators like the Senator from North Carolina do not like what the courts say and accuse the courts of legislating.

Too often, over the past several decades people have passed the buck right out of this Chamber and right out of the White House into the Supreme Court.

I am not going to do that. I am not going to do that, as far as I am concerned, whether it is the independence of the judiciary as it relates to effective remedies against discrimination, or whether it relates to the rights of women in the sense of abortions, or whether it is the matter of the first amendment and freedom of religion.

The Senator from North Carolina can send one signal. I am going to send another.

I admire him. Let me say this to the Senator. There is no questioning where he stands on these issues. There is no questioning where I stand on these issues.

The Senator from North Carolina is not passing the buck.

Mr. HELMS. I thank the Senator.

Mr. WEICKER. But I am not going to go ahead and pass the buck either.

That is the reason why the lines are now being drawn. I realize that politically the neck of the Senator from North Carolina is on the line and then all of a sudden my neck goes on the line.

Really, the resolution of this debate probably will not take place in this Chamber today. Rather, it will come when the Senator from North Carolina and I have to face our constituents on the record that we have established. But our constituents will be probably more fortunate than any others in the country. They will not have to find us wandering around in some fog.

We are right out there and probably the best thing I can say now is thank God for the Senator from North Carolina that he is not running in Connecticut and thank God for me that I am not running in North Carolia.

Mr. HELMS. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 650

(Subsequently numbered amendment No. 634.)

(Purpose: To express the sense of the Senate that academic exchange programs should not be reduced)

Mr. WEICKER. Mr. President, I intend to offer an amendment, but prior to sending it to the desk I shall read it:

SEC. 509. The Senate finds that:

(a) The budget amendments requested by the President would cause a fifty-six percent reduction in important international academic and cultural exchange programs in which the United States participates;

(b) The reductions would drastically reduce the Fulbright Program and cause the elimination of the Humphrey Fellowship Program;

(c) The reductions in these programs would deny thousands of students and scholars the opportunity to study in the United States and to enhance their knowledge of our people and government;

(d) The reductions would deny foreign students and scholars exposure to the rich culture of the United States and advantages of our democratic government;

(e) The result of these reductions will be an increased disparity between the number of Soviet sponsored academic exchanges and the number of exchanges sponsored by the United States;

(f) The United States will be relinquishing the educational exchanges as an aspect of our foreign policy and good will to others;

(g) These educational exchange programs constitute "a weapon of ideas" which if effectively used by the United States Government can be a deterrent to the spread of totalitarian influence.

Therefore, it is the sense of the Senate that the academic and cultural exchange programs sponsored by the United States should not be reduced and that the President of the United States, in conjunction with the Congress of the United States, should establish a program for increasing United States participation in academic exchange programs.

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

The PRESIDING OFFICER. The amendment will be stated.

Th assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 650.

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

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

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 509. The Senate finds that:

(a) The budget amendments requested by the President would cause a fifty-six percent reduction in important international academic and cultural exchange programs in which the United States participates;

(b) The reductions would drastically reduce the Fulbright Program and cause the elimination of the Humphrey Fellowship Program;

(c) The reductions in these programs would deny thousands of students and scholars the opportunity to study in the United States and to enhance their knowledge of our people and government;

(d) The reductions would deny foreign students and scholars exposure to the rich culture of the United States and advantages of our democratic government;

(e) The result of these reductions will be an increased disparity between the number of Soviet sponsored academic exchanges and the number of exchanges sponsored by the United States;

(f) The United States will be relinquishing the educational exchanges as an aspect of our foreign policy and good will to others;

(g) These educational exchange programs constitute "a weapon of ideas" which if effectively used by the United States Government can be a deterrent to the spread of totalitarian influence.

Therefore, it is the sense of the Senate that the academic and cultural exchange programs sponsored by the United States should not be reduced and that the President of the United States, in conjunction with the Congress of the United States, should establish a program for increasing United States participation in academic exchange programs.

Mr. HOLLINGS. Mr. President, I think the amendment is most timely. We have just observed and listened to the President before the National Press Club deliver his all-important message relative to arms control and international peace.

It is quite significant in President Reagan's talk that much of the considerate and deliberate conclusions that he reached were reached with regard of the peoples of Western Europe.

I think that highlights the need for strong and effective cultural and educational exchange programs. We can take a position but unless it is understood, appreciated, and supported by our allies and the peoples of the world generally, then the best of the defense appropriations, or the best of the defense policies and programs will die aborning because of a lack of that understanding and support.

I happen to think that the President's talk was right on target. I thought it was one of the most eloquent he has ever delivered, and I think it is a message right straight down the line for a balanced program of mutuality of arms reductions, one that is verifiable, and that is the kind that I have yearned to support.

So I welcome President Reagan's talk.

The amendment that the Senator from Connecticut has now submitted just fits right in. There are so many, many things by way of budgeteering that really amount to a budget savings rather than a budget cut. I think that became significant in the recent Stockman article where he catalogs all the different programs and comes up with the conclusion that we just cannot do everything in spending cuts unless we are willing to cut into the heart of needed programs.

One of the real investments is the educational and cultural exchange of the Fulbright scholarship and Humphrey scholarship programs.

Over the years they have given us in large measure the stability that we enjoy today in world peace. I think to have cut this back as has been requested is incongruous with what President Reagan presented this morning in that address before the National Press Club.

On the contrary, rather than heeding the President's September budget revision, and cutting some $50 million, the committee has increased the educational and cultural exchanges by $9 billion. It might appear as a $9 billion increase momentarily here in State, Justice, Commerce, but in the long run it is a saving under the 050 function providing for defense. Since I have to deal with them all on the defense side, I look upon this as in reality a spending cut on defense and affords us to step down in the arms race.

So this is a long-range view, this is the investment, this is a true responsibility in the functioning of an appropriate government. I commend the Senator from Connecticut for his leadership in this particular score. It is a tried and true program, and I urge the Senate to include the admonition that the amendment provides.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I thank my distinguished colleague from South Carolina for his very perceptive and astute remarks.

Mr. President, in a memorandum from the U.S. International Communication Agency as to the detailed impact of the 12 percent across-the-board fiscal year 1982 cut, let me read that section which applies to exchanges:

3. EXCHANGES (—$44.4 MILLION)

As indicated above, the major portion of the FY 1982 cut will be applied to grant-funded exchange programs in order to preserve essential Agency core-program operations. Specifically, the academic program will be cut by 53 percent ($25,600,000); the International Visitor program, by 58 percent ($11,500,000); and Private Sector programs, by 70 percent ($5,400,000). Library and book programs, support to American schools overseas, and program direction will also be reduced by $1,900,000.

The full impact of cuts of this magnitude, applied to institutions and individuals after the fiscal year has begun, is not possible to gauge at this time. The private organizations that perform the detailed exchange work for the Agency would be severely damaged. Some, in all probability, would not survive.

a. *Academic programs:* A 53 percent cut in funds available for the Fulbright academic program will eliminate support for all but programs administered by Binational Commissions and programs with those countries, primarily in East Europe, with which the United States has bilateral agreements. Even binational commission programs will face reductions of some magnitude. We will retain active programs in only 59 of the 120 countries in which we now operate.

This cut will increase tremendously the ever-widening disparity between the number of academic scholarships awarded by the Soviet Union and the United States Governments, particularly in Third World countries. As a direct result of these cuts, the number of academic program grantees will be reduced by at least 40 percent. In addition, host country contributions to the program, currently at $9 million, are expected to fall off sharply in response to the diminished American commitment, leading to a further significant decrease in the number of scholars exchanged. Important diplomatic relationships and goodwill built up over three decades will be damaged.

Mr. President, I ask unanimous consent that the full text of this memorandum be printed in the RECORD.

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

U.S. INTERNATIONAL COMMUNICATION AGENCY—DETAILED IMPACT OF 12-PERCENT ACROSS-THE-BOARD FISCAL YEAR 1982 CUT

[The recently transmitted budget amendment reduced USICA's fiscal year 1982 estimates by $67,400,000 as follows]

	Fiscal year 1982 estimate	House appropriation bill	Amendment	Amended estimate
Salaries and expenses	$453,286	$448,286	—$54,394	$398,892
Salaries and expenses (special foreign currency)	10,352	9,800	—1,242	9,110
East-West center	16,880	16,500	—2,026	14,854
Radio construction	80,884	25,000	—9,706	71,178
Total	561,402	499,586	—67,368	494,034

The International Communication Agency, the U.S. Government's most vital weapon in the arsenal of ideas, plays a strategic role in America's security. This "weapon of ideas" must be used effectively so that the alternative, military weapons, are not put to use. In this context, following a USICA presentation to the President and the NSC on August 17, 1981, the President directed the Agency to proceed immediately with "Project Truth," a program to counter the extensive propaganda and disinformation campaign of the Soviet Union. Notwithstanding this and other important Agency national security responsibilities, the present budget emergency requires the Agency to reduce its activities in FY 1982.

Over the last 15 years, USICA's funds have decreased by 30 percent in constant dollars. Even more damaging has been the decline in staff, our most critical resource, which has dropped by 35 percent from 11,604 to an authorized level of 7,513, over the same period. In the long term we do not believe that the Agency can, at the currently planned 1982 level, effectively carry out its enhanced national security role. Thus, in this present budget situation we have prioritized Agency programs to preserve to the maximum extent possible our staff resources and our basic program mechanisms, particularly the Voice of America, our field presence overseas, the Wireless File, and other support for the field. In the brief period of time available to consider resource alternatives, we have applied the reductions so that the Agency's basic structure is not permanently affected.

Therefore, as an emergency measure, we have allocated a major share of the reduction to the exchange program on the assumption that a significant part of this very valuable grant program can be deferred for a year or two and be rebuilt more readily than our more staff intensive programs. We regret the circumstances that necessitate this action, but feel it is preferable to a generalized cut back of many already weakened programs.

Even with this approach other programs are also affected adversely. We have applied reductions to field operations, principally to cut back on library operations and some smaller posts so that fixed costs can be reduced. Other reductions have been applied to planned technology improvements and transmission back-up systems and program support activities of the Voice of America. A substantial cut has been made in film and television programs, exhibits, and performing arts presentations.

Unfortunately, our accumulated reductions, which will now take USICA below $500 million, have been in inverse relationship to the resources that the Soviets have been spending on the weapons of ideas, now in excess of $2 billion per year. The pending amendment cuts heavily into our operating resources at a time when USICA's role has become more compelling.

Prior to the transmission of the September budget amendment, the House had passed the FY 1982 appropriations bill, reducing USICA's request by $61.8 million. As noted on the chart on page one, the House applied most of the cut, $55.9 million, to the Radio Construction account inasmuch as those funds will not be required until FY 1983.

The specific program cuts and their impact by program element follow:

Salaries and Expenses (including Special Foreign Currency) ($—55.6 million; —87 positions).

1. Overseas Missions ($—3.4 million; —73 positions):

A total reduction of $3.384,000 and 73 positions will be applied to our overseas missions as follows:

Area	Positions	Funds
East Asia and Pacific	4	$ 325,000
Africa	19	1,017,000
N. Africa, Near E. and S. Asia	15	1,080,000
American Republics	18	605,000
Europe	17	357,000
Total	73	3,384,000

As a result of these cuts, we will close: (1) four country programs in Iraq, Mauritania, Benin, and Rwanda; (2) six branch posts in Chile, Ecuador, Venezuela, Colombia, and Brazil; and (3) the reading room in Auckland, New Zealand, the American center and library in Stockholm, Sweden, and six minimum distribution outlets in Africa. In total, 73 positions will be eliminated. Taken together, these and other program reductions in our overseas missions will further weaken our efforts to reach the successor generation and will curtail our operations in developing nations of the third world, a group that the Administration is very concerned about.

2. Voice of America (—$1.8 million):

The Voice of America's staff and program broadcast schedule will be maintained intact. However, VOA will be required to eliminate its high-frequency signal transmissions which presently back up the satellite circuits that feed programming to VOA's overseas transmitters. Subsequently, should a disruption in the satellite circuit occur.

VOA literally would be off the air to major geographic regions of the world until the satellite circuits could be restored or until VOA could reactivate the high-frequency transmissions from one of its U.S.-based stations. Such disruptions could be critical to U.S. national interests in times of any international crisis or major world event. In addition, VOA will have to make major resource cuts in its central news and feature operations which service all of VOA's English and foreign-language broadcast operations. Program quality will suffer.

3. Exchange (—$44.4 million):

As indicated above, the major portion of the FY 1982 cut will be applied to grant-funded exchange programs in order to preserve essential Agency core-program operations. Specifically, the academic program will be cut by 53 percent ($25,600,000); the International Visitor program, by 58 percent ($11,500,000); and Private Sector programs, by 70 percent ($5,400,000). Library and book programs, support to American schools overseas, and program direction will also be reduced by $1,900,000.

The full impact of cuts of this magnitude, applied to institutions and individuals after the fiscal year has begun, is not possible to gauge at this time. The private organizations that perform the detailed exchange work for the Agency would be severely damaged. Some in all probability, would not survive.

a. Academic programs: A 53 percent cut in funds available for the Fulbright academic program will eliminate support for all but programs administered by Binational Commissions and programs with those countries, primarily in East Europe, with which the United States has bilateral agreements. Even binational commission programs will face reductions of some magnitude. We will retain active programs in only 59 of the 120 countries in which we now operate.

This cut will increase tremendously the ever-widening disparity between the number of academic scholarships awarded by the Soviet Union and the United States Governments, particularly in Third World countries. As a direct result of these cuts, the number of academic program grantees will be reduced by at least 40 percent. In addition, host country contributions to the program, currently at $9 million, are expected to fall off sharply in response to the diminished American commitment, leading to a further significant decrease in the number of scholars exchanged. Important diplomatic relationships and goodwill built up over three decades will be damaged.

This reduction in funds will eliminate the International Student Exchange (Georgetown) Project and the Humphrey Fellowship Program. Programs in 27 private organizations with many long term relationships will be dissolved. Funding for six major program agencies will be eliminated. This could cause as many as five of these agencies to close, with major impact on parent organizations such as the American Council on Education and the Institute of International Education. All Student Support Services to the more than 300,000 foreign students in the United States without U.S. Government financial support (such as counseling, orientation, and other programs to enrich their U.S. experience) will be terminated. The American Studies Program will be reduced to minimal materials support to Fulbright Commissions. Assistance to overseas schools will be drastically reduced with severe impact on the effectiveness of these schools as showcases of American educational philosophy and practice.

b. *International Visitor Program:* The number of funded International Visitor program grantees will be halved from 1,500 to 750. In past decades, this program has been instrumental in introducing 33 current heads of state and government and many leaders in other fields to the United States in the formative stages of their careers. Programs in some 75 countries will be eliminated entirely and reduced substantially in the remaining 45. This will necessitate the elimination of support to 13 private agencies that arrange programs for individual grantees. We believe that three of these agencies will probably be forced to close.

Program support to the 1,600 visitors who travelled to the United States last year on non-U.S. Government funds will be eliminated entirely.

A network of some 750,000 volunteer, private sector, locally financed "citizen diplomats" in every part of the nation and nearly 100 U.S. communities has developed over three decades to assist the people who come under the auspices of our International Visitor program. Their programming and hospitality assistance make this a combined citizen-government effort, a contribution-inkind that has been estimated at $15.5 million per annum. Without our catalytic role for these organizations and with the curtailment of visitor inflow, these volunteer organizations will begin to dissolve and will not be available again for future IV programming.

c. *Private Sector Program:* The Private Sector Program's commitments under existing bilateral agreements and executive orders to such organizations as the National Committee on U.S.-China Relations, Asia Society, and the Council on Scholarly Communication with the PRC, will be reduced to 50 percent of the current level with significant implications on the ability of these organizations to achieve their objectives.

Core private sector programs, such as Operations Crossroads Africa, American Council of Young Political Leaders, and Council on International Programs who play a significant role in promoting citizen-to-citizen exchanges, will be reduced from half to two-thirds with support for some of the organizations being completely terminated.

Overall, people-to-people exchanges will be reduced from 2,000 to less than 600. The Agency has made a general nation-wide solicitation of private non-profit organizations to participate in new projects and exchange initiatives which support U.S. foreign policy goals and objectives. All funds for these initiatives will be eliminated. USICA Private Sector grants provide "seed money" for these organizations to obtain private support, estimated by these organizations at a 5 to 10 fold effect.

4. Program and Management Support (—$3.4 million, —14 positions):

Exhibits, fine and performing arts, films acquired to support our posts, and TV programs, reduced heavily in March, will be cut back again. Our in-house audiovisual production now is limited to videotape products covering current events and subjects relevant to the support of worldwide U.S. foreign policy interests and goals, with emphasis on the following USICA global themes: U.S. political and security policies, the U.S. economy and the world economic system, solving the energy problem, America in a changing world, and the arts, humanities, and sciences in America.

The added cuts will significantly curtail this effort and will totally eliminate those dealing with American political and social values and products in support of USICA's cultural presentation program. Other cuts will eliminate fine arts exhibitions or performing arts tours in 30 countries and delay the showing of a major exhibition on the American Theatre.

In addition, efforts to update the Agency's technological base with text-editing, minicomputers, word processors and other advanced computer and communication technology will be curtailed or deferred.

These cuts will deprive both our Washington operations and field posts of valuable program and management support and make their tasks more difficult.

In addition to the specific program cuts outlined above, we will apply net built-in savings of $2.6 million to the overall $55.6 million Salaries and Expenses cut. These savings derive from international exchange rate gains, partially offset by added inflationary costs and other mandatory requirements for Agency activities.

East-West Center (—$2.0 million):

Support to the East-West Center in Hawaii will be cut by over $2.0 million. This would force substantial retrenchment within this valuable center of multi-national education, study and research. Specifically, the cut will result in substantial decreases in research efforts, dissemination efforts through the Asian/Pacific region, numbers of participants involved in our programs (cut 300 participants) and in financial contributions from the governments of Asia and Pacific Islands. More broadly, the reduction will weaken our effort to strengthen relations and understanding with the influential people of Asia and Pacific at the time when it is to the national interest to build and strengthen these cooperative relationships with the United States.

Radio Construction (—$9.7 million):

The FY 1982 construction requirements for the Botswana and Sri Lanka facilities, for which equipment valued at $5.7 million has been procured, can be accommodated within the amendment cut of $9.7 million since these funds will not be required until FY 1983.

Mr. WEICKER. I think the New York Times phrased it very well when they said "The U.S. is about to launch a policy of unilateral disarmament in the worldwide contest of ideas," unilateral disarmament in the worldwide contest of ideas.

Let me give a specific, concrete example of what I am talking about. About a year-and-a-half ago I had occasion to visit the Island of Cuba. I hear a great deal of consternation expressed by members of this administration, indeed Members on the floor of the U.S. Senate, as to the Cuban troops in Ethiopia and in Angola.

While I certainly do not advocate looking upon that with favor, I want to point out that that is nowhere near the danger that we face from the activity that I am about ready to describe.

It is my feeling that Africa is going to swallow up those Cuban troops just like they swallowed up the colonial troops of Europe, and like they swallowed up the Chinese and anybody else who goes there; they will not last very long.

However, in the visit to Cuba I had occasion to visit what is now called the Isle of Youth, formerly the Isle of Pines.

On that island sit about 60 senior high school complexes. Many of them are devoted to students from foreign nations. The one I visited had 600 Namibian students, 600 young people getting their education courtesy of the Soviet Union and Cuba.

Namibians have as their native language English, so there is no language barrier with Americans. Indeed, the language barrier is greater for them being in Cuba. Those Namibians are not here getting their education in the United States. They are in Cuba and they are going back to that emerging nation and they are going to become the leaders of

Namibia, the business leaders, the educational leaders, the scientific leaders, the political leaders, the military leaders, with an education courtesy of the Soviet Union and Cuba.

I asked the question in our subcommittee: how many Namibians have we had here in the United States of America, the United States with its University of South Carolina, with its Yale University, its Princeton University, its University of Southern California, its Georgetown, its George Washington University, its University of Maryland, Brown University, Duke, right on down the list?

How many have we had here in the past year? Two. Now do not worry that the main threat is being posed by those troops. You worry about those 600 students and, mind you, that was one of many complexes, others being devoted to other nations.

It is a great term the New York Times used "unilateral disarmament in the worldwide contest of ideas."

Here is the great thing that the United States has to offer the world: our educational complexes, systems, and personnel. We have just decided to withdraw from the field while at the same time we say that we want to be the No. 1 in power in this world. That makes as much sense as saying, "We are going to be the No. 1 in this world insofar as our preeminence, our power, but we are going to cut education 25 percent, we are going to cut science 25 percent."

May I remind my colleagues that the United States is not going to outman the Soviet Union. That is a biological impossibility. We are going to continue our preeminence, by what comes from up here, our minds, our quest for technology, our mastery of technology, our quest for science, our mastery of science.

So this business that we can leave education in the international sense or we can leave education in the domestic sense is sheer suicide for this small nation, which has thrived and grown great because of its ideas.

That is why we want to emphasize all of this in this appropriation bill, to reaffirm—I might add we did everything we could in a monetary sense. I might say—my good friend from Texas (Mr. TOWER), chairman of the Armed Services Committee I will leave the hardware to you and I will take care of the ideas.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Connecticut, as I say, is right on target. Less than a year ago I had an opportunity to visit in Panama. I was checking and reporting on the operation of the Panama Canal under the new treaty, and I was impressed by one singular factor. I had the opportunity to talk at length with Gabriel Lewis, a former ambassador. In Panama they were not asking for money; they needed jobs. They were talking about putting some 20,000 high school graduates out, and they needed jobs at the other end of the line.

More than anything else that impressed me was exactly what the Senator from Connecticut is talking about. Ambassador Lewis said, "You have reduced your cultural and exchange programs," and I recalled that Omar Torrijos studied and trained with our American military. He said, "More than that, hundreds of Panamanians, the young, bright high school graduates, are being taken over into Cuba and they are being trained there and being sent back. If you do not step up your programs like that, you will lose your influence in Panama and throughout the world." Here is a leader who has cast his lot with the United States in that particular treaty, and now he has got the obligation, the feeling, and the apprehension that it will work. One of the ways to make certain that it works is for them to continue on, as they have tried to do, toward free elections in a free society. Yet he sees it being eroded by the Cuban operation described by the Senator from Connecticut.

I think the keynote of it all is that the man of peace of this decade, Anwar Sadat, was involved in the exchange program. I think that, more or less, describes the thrust of this amendment better than anything I could add.

I thank the distinguished Senator, and Mr. President, I ask unanimous consent to place in the RECORD a listing supplied by the International Communications Agency of the current heads of state and cabinet ministers who are alumni of the educational and cultural exchange programs. I am advised that the 33 heads of state indicated in the listing is current but that the number of cabinet ministers may not be exactly correct, but 378 is a good representation of the impact of the exchange program.

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

CURRENT HEADS OF STATE AND CABINET MINISTERS ALUMNI OF ECA PROGRAMS

Total Heads of State: 33.
Total Cabinet Ministers: 378.

AREA OF AFRICA

(6 Heads of State, 82 Cabinet Ministers)

Botswana—Chief of State and Head of State Q. K. Masire, IV 1971—Cabinet Ministers: 8.
Burundi—Cabinet Minister: 1.
Cameroon—Cabinet Ministers: 4.
Central African Republic—Cabinet Ministers: 2.
Gabon—Cabinet Ministers: 2.
Ghana—Cabinet Ministers: 2.
Guinea-Bissau—Cabinet Ministers: 5.
Kenya—President Daniel T. Arapmoi, IV 1969—Cabinet Ministers: 5.
Lestho—Cabinet Minister: 1.
Liberia—Cabinet Ministers: 2.
Madagascar—Chief of State Didier Ratsiraka, IV 1973.
Malawi—Cabinet Ministers: 3.
Mali—Cabinet Ministers: 3.
Mauritius—Head of State Sir Bayandranah Burrenchobay, IV 1969—Cabinet Ministers: 7.
Republic of the Congo—Cabinet Minister: 1.
Rwanda—Cabinet Minister: 1.
Seychelles—President France Albert René, IV 1960.
Sierra Leone—Cabinet Ministers: 7.
Somalia—Cabinet Minister: 1.
South Africa—Cabinet Ministers: 2.
Uganda—Cabinet Minister: 1.
Upper Volta—Cabinet Ministers: 4.
Zaire—Cabinet Ministers: 10.
Zambia—Cabinet Ministers: 9.
Tanzania—President Julius Nyerere, IV 1960.

AREA OF AMERICAN REPUBLICS

(6 Heads of State, 58 Cabinet Ministers)

Argentina—Cabinet Ministers: 4.
Barbados—Prime Minister Tom Adams, IV 1973—Cabinet Ministers: 8.
Bolivia—Cabinet Ministers: 2.
Brazil—Cabinet Ministers: 3.
Chile—Cabinet Ministers: 2.
Colombia—President Julio Cesar Turbay Ayala, Vol. Vis. 1977—Cabinet Ministers: 6.
Costa Rica—Cabinet Ministers: 3.
Dominican Republic—Vice President Jacobo Majlute, IV 1976—Cabinet Ministers: 3.
Ecuador—Cabinet Ministers: 2.
El Salvador—Cabinet Ministers (Governing Junta): 2.
Guyana—Prime Minister Ptolemy Reid, IV 1966—Cabinet Ministers: 2.
Honduras—Cabinet Ministers: 5.
Nicaragua—Member of JRN Moises Hassan Morales, Academic 1968, Cabinet Ministers: 6.
Paraguay—Cabinet Minister: 1.
Peru—Cabinet Ministers: 2.
Surinam—Cabinet Minister: 1.
Trinidad—Cabinet Minister: 1.
Venezuela—President Dr. Luis "Herrera' Campins, IV 1967.

AREA OF EAST ASIA

(5 Heads of States, 50 Cabinet Ministers)

Australia—Prime Minister J. M. Fraser, IV 1964, Cabinet Ministers: 7.
Burma—Cabinet Minister: 1.
China—Cabinet Minister: 1.
Fiji—Head of State (Government-General Ratu Sir George Cakobau, IV 1963, Head of Government (Prime Minister Ratu Sir Kamisese Mara, IV 1964, Cabinet Ministers: 2.
Hong Kong—Cabinet Ministers: 2.
Indonesia—Cabinet Ministers: 3.
Japan—Cabinet Ministers: 3.
Korea—Prime Minister Dr. Nam Duck-Woo, Academic 1975, Cabinet Ministers: 2.
Malaysia—Cabinet Ministers: 9.
New Guinea—Cabinet Ministers: 2.
New Zealand—Prime Minister Robert D. Muldoon, IV 1965, Cabinet Ministers: 3.
Philippines—Cabinet Ministers: 5.
Singapore—Cabinet Ministers: 3.
Thailand—Cabinet Ministers: 4.

AREA OF NEAR EAST ASIA

(3 Heads of State, 48 Cabinet Ministers)

Bahrain—Cabinet Ministers: 4.
Bangladesh—Cabinet Ministers: 2.
Egypt—Cabinet Minister: 1.
India—Prime Minister Indira Ghandi, IV 1960, Cabinet Ministers: 2.
Israel—Cabinet Ministers: 2.
Jordan—Cabinet Ministers: 3.
Lebanon—President Elias Sarkis, IV 1970, Cabinet Ministers: 6.
Morocco—Prime Minister H. E. Maati Bouabid, IV 1961, Cabinet Ministers: 12.
Nepal—Cabinet Minister: 1.
Oman—Cabinet Ministers: 2.
Sri Lanka—Cabinet Ministers: 6.
Sudan—Cabinet Ministers: 6.
United Arab Emirates—Cabinet Minister: 1.

AREA, WESTERN EUROPE

(13 Heads of State, 130 Cabinet Ministers)

Austria—Chancellor Dr. Bruno Kreisky, IV 1958 Cabinet Ministers: 6.
Belgium—Prime Minister Wilfried Martens, IV 1971 Cabinet Ministers: 10.
Canada—Head of State Governor General Edward R. Schreyer, IV 1978 Cabinet Ministers: 5.
Cyprus—Acting President Alecos Michaelides, Academic 1963–1964 Cabinet Ministers: 16.
Denmark—Cabinet Ministers: 4.
Federal Republic of Germany—President Karl Carstens, IV 1950; Chancellor Helmut Schmidt, IV 1956 Cabinet Ministers: 4.
France—Cabinet Ministers: 5.
Greece—President Constantinos Caramanlis, IV 1951; Prime Minister Andreas Popandreau, Academic 1959–1960.

Iceland—Cabinet Ministers: 3.
Italy—Prime Minister Arnaldo Forlani, IV 1960, Cabinet Ministers: 5.
Malta—Prime Minister Dom Mintoff, IV 1965.
Netherlands—Cabinet Ministers: 10.
Norway—Cabinet Members: 8.
Portugal—Head of Government Francisco, IV 1976; Cabinet Members: 10.
Spain—Cabinet Minister: 1.
Sweden—Cabinet Ministers: 32.
Turkey—Cabinet Ministers: 11.
United Kingdom—Prime Minister Margaret Thatcher, IV 1963.
Norway—Prime Minister Kare Willoch, IV 1979.

AREA OF EASTERN EUROPE

(10 Cabinet Ministers)

Bulgaria—Cabinet Minister: 1.
Hungary—Cabinet Minister: 1.
Poland—Cabinet Ministers: 2.
USSR—Cabinet Minister: 1.
Yugoslavia—Cabinet Ministers: 5.
January 1981.—Heads of State updated: November 1980.

NOTE: IV denotes participation in International Visitors program.

CAIRO, ILL. WEATHER STATION

● Mr. PERCY. Mr. President, under the account for the National Oceanic and Atmospheric Administration, the Appropriations Committee has provided $1,231,000 to maintain 20 fully operational National Weather Service stations. The Cairo, Ill. weather station, however, was not included among those the committee recommended to be maintained.

Cairo, Ill. is the southern most point in Illinois. Lying at the confluence of the Mississippi and Ohio Rivers, the city is fully levied because of the threat of floods. Floods can occur swiftly in this low-lying area and prompt and accurate local forecasts are depended on by the community, particularly by barge lines, farmers, and other local interests concerned with the level of the river. While the Weather Service contends that forecasts from St. Louis or Louisville and Memphis would substitute for local forecasts initiated at Cairo, the unique topography of the area suggests a need for locally generated forecasts. Cairo is in "tornado country" and the spring rains endanger Cairo to weather hazards.

I wish to ask the distinguished Senator from Connecticut, Mr. WEICKER, whether he could respond to the special case of Cairo and direct the National Weather Service to reevaluate the Cairo case before making any judgment to close the local weather station? Such a study seems appropriate given the precarious position of Cairo and we want to make certain it is justified before acting.

Mr. WEICKER. Yes. I understand the special needs of Cairo at the confluence of these great rivers, the Mississippi and Ohio; and would agree to direct the National Weather Service to conduct a suitable review before making any decision to close down the local station in Cairo.

Mr. PERCY. I appreciate this accommodation by the Senator from Connecticut and thank him very much indeed.●

● Mr. DOMENICI. Mr. President, H.R. 4169 as reported by the Appropriations Committee provides new budget authority of $8.6 billion for fiscal year 1982.

With possible later requirements for October 1981 pay raise and the administration's requested increase for the Immigration and Naturalization Service (INS), the reported bill is exactly at the Commerce-State-Justice Subcommittee's budget authority allocation under the first budget resolution and above the subcommittee's outlay allocation by $0.3 billion. I would like to commend the subcommittee for restraining the credit side of the budget.

The credit limitations in the reported bill are $1.8 billion, 21 percent below the credit budget assumptions of the first budget resolution. This reduction will result in lower budget outlays in the current and future years. I would also like to commend the subcommittee for keeping the funding levels provided in this bill consistent with the authorization levels of the Omnibus Reconciliation Act.

The Senate bill is $0.1 billion in budget authority below and $0.2 billion in outlays above the House-passed bill, with possible later requirements taken into account.

It exceeds the President's September budget request by $0.9 billion in budget authority and $0.7 billion in outlays.

The President's September budget request for programs and activities funded in this bill, with later requirements, represents roughly an 11-percent reduction in budget authority and an 8-percent reduction in outlays from his March budget request. The Senate-reported bill is about 1 percent in budget authority and outlays below the levels requested by the administration in March.

The bill provides increases of $0.1 billion for international programs, $0.1 billion for NOAA, $0.2 billion for EDA, $0.2 billion for the Legal Services Corporation, and $0.1 billion for juvenile justice grants over the levels requested by the President in September.

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

The table follows:

Commerce, Justice, State and the Judiciary Subcommittee

[In billions of dollars]

	Fiscal year 1982	
	BA	O
Outlays from prior-year budget authority and other actions completed	---	3.2
H.R. 4169, as reported in Senate	8.6	6.8
Possible later requirements:		
October 1981 pay raise	0.1	0.1
Immigration and Naturalization Service	0.1	0.05
Total for Commerce, Justice, State and the Judiciary Subcommittee	8.8	10.2
First Budget Resolution level	8.8	9.9
House level	8.9	10.0
President's March request	8.9	10.3
President's September request[1]	7.9	9.5
Commerce, Justice, State and the Judiciary Subcommittee compared to:		
First Budget Resolution level	---	+0.3
House level	−0.1	+0.2
President's March request	−0.1	−0.1
President's September request	+0.9	+0.7

[1] Adjusted to reflect President's September request for the Legal Services Corporation rather than the Corporation's budget request.●

SECOND CONTINUING APPROPRIATIONS, 1982

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate will now proceed to the consideration of House Joint Resolution 357, which the clerk will state by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 357) making further continuing appropriations for the fiscal year 1982, and for other purposes.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Appropriations with amendments.

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

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

Mr. HATFIELD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The continuing resolution, House Joint Resolution 357.

Mr. HATFIELD. Mr. President, I bring before the Senate today a further continuing resolution for fiscal year 1982. Before we get into the details of the proposal before the Senate, I would like to insure that all Members understand the conditions which have brought us to this point.

The appropriations process this year has been forced to endure an unprecedented number of delays and major budget revisions. The process was set back 2 months at the beginning of the year while the committee awaited President Reagan's revisions to President Carter's budget requests. Then, just as appropriations bills began moving in the Senate, President Reagan, responding to worsening economic conditions, asked the committee to halt action on these bills in order that we might consider a new round of budget reduction proposals. These new proposals were received by the Appropriations Committee on

September 30, the day before the beginning of fiscal year 1982.

When action on 1982 bills was suspended, the Senate Committee on Appropriations had reported three bills for Senate action. The President's recommendations were carefully considered, regardless of the status of a particular appropriation bill in the legislative process.

We have even reexamined the conference report on HUD-Independent agencies, which was approved by the House of Representatives, and in this resolution are proposing an additional $2 billion in savings for these programs.

With the committee's action yesterday in reporting the Defense appropriation bill, all regular appropriation bills have been reported for Senate action. Eight of the thirteen bills have passed the Senate, leaving five awaiting floor action. Conference reports on five bills have been filed.

Mr. President, let me now quickly identify how each remaining appropriation bill is treated in House Joint Resolution 357. The continuing resolution as recommended by the committee provides funding for each of the 12 regular appropriations bills not yet enacted into law.

As everyone knows, the appropriations bill on legislative matters was enacted into law, passing both the Houses, the conference, and then the President signed the bill. So we have 12 remaining bills now.

The formula adopted by the committee is based on the position of each of these bills relative to final congressional consideration. For instance—those bills which have completed conference committee consideration are referenced into the resolution at that level. These measures are Agriculture, Transportation, District of Columbia, Interior, and the Housing and Urban Development appropriations bills.

Each one of these bills has moved through the House, through the Senate, and have completed the conference work in each instance and those conference reports are on file.

Levels for those bills which have either been passed or reported in the House but which have not been acted upon by the full Senate have been set at the lower of the House or Senate reported or passed level. These measures are: Department of Defense, military construction, Labor-HHS-Education, and the Treasury-Postal Service appropriations bills.

Finally, Mr. President, the committee recommends that in the case of bills which have been acted upon by the Senate but which have not yet completed conference action, that these measures be incorporated into the continuing resolution at the Senate-passed rate. It is the committee's view that this formulation preserves to the maximum extent possible, not only the prerogatives of the Senate, but perhaps more importantly, the need to hold down spending for activities where congressional action is not near completion. These bills are energy-water, foreign operations, Commerce-State-Justice, and the Judiciary.

The continuing resolution as reported would set spending at a level very close to the President's September request. Newly created budget authority amounts to $432.5 billion, only $0.8 billion above the President. Estimated outlays are $417.4 billion, $2.2 billion above the President.

Let me repeat, Mr. President, that as far as budget authority is concerned, the continuing resolution as presented here on the floor by the Senate Appropriations Committee is $800 million above the President, whereas in the outlays, the estimated outlays, which is a floating situation as it goes through the annual budget year, are $2.2 billion above the President.

House Joint Resolution 357 should be viewed as a stopgap funding measure despite its September 30 expiration date. It remains the firm intention of the committee to press ahead with Senate action on regular appropriation bills.

Mr. President, I received full assurance from the majority leader and I understand, through the majority leader, from the minority leader as well that they will continue to give special priority to appropriations bills or conference reports once we get this continuing resolution.

I hope that Senate action on the remaining five bills could be completed in the next 2 or 3 weeks. Upon enactment of a regular appropriation bill, the continuing resolution provisions pertaining to that bill are superseded.

In other words, Mr. President, once we have passed an appropriations measure that has moved its way through the House and the Senate and receives the signature of the President, that drops out of the continuing resolution. That supersedes whatever the continuing resolution may have indicated.

Thus, although programs are protected under this resolution for a full year, the Senate will have the opportunity to seek further savings in appropriated programs through the normal legislative process.

I have to underscore this, Mr. President, because in no way does it infringe upon the normal procedures of the Senate to modify any appropriation bill that comes to the floor from the committee. Amendments subtracting, amendments adding, or whatever, the will of the Senate will be worked on each of these appropriations bills. No one's rights are being foreclosed by this continuing resolution.

Mr. President, before I yield to Senator PROXMIRE, who is the very distinguished ranking member of the committee and, I must say, has been so cooperative, as have all members of the committee—I do not think we could have moved to this point without the guidance and support of members on both sides. I would not make any comparisons in any way except to say that I do not believe, in the modern history of the Appropriations Committee, has so much been accomplished in so brief a period of time under very adverse circumstances. I think that is a record we can be immensely proud of. Over the past decade, appropriations, largely driven by the uncontrollable items within them, have risen an average of 17 percent per year. Although action this year is not complete, based on Senate action on these bills for fiscal year 1982, appropriations will rise only 2 percent as against the normal decade average of 17 percent a year. And this 2 percent figure takes into account the huge defense increase reported to the Senate yesterday.

Let me say, Mr. President, that defense committee bill is $8 billion over the President's request and $11.4 billion over the House bill. But in spite of that huge defense bill, we have still, overall, only a 2-percent increase, which is a remarkable record. I hope the Members will keep these figures in mind as we proceed to the consideration of this resolution.

Mr. President, what I have said about the Members, I should also have to apply to the very extraordinary work done by the staff. I suggest that probably there is no committee staff that has had to function so many hours out of the 24-hour period as the staff on the Committee on Appropriations. That is not only in terms of the long sessions that we have held and the markups and all of the things that go into that kind of external procedure, but then the many hours that go into the paperwork that must be compiled and put together in great detail. The staff on both sides have been, really, extraordinary in their commitment and their dedication.

Of course, I cannot pay too high tribute to my good friend from Wisconsin (Mr. PROXMIRE) for his very noble efforts and constant and tenacious cooperation that he has displayed from the very beginning in this very difficult task.

Mr. PROXMIRE. Mr. President, it is a real pleasure to work with the distinguished Senator from Oregon. He is an outstanding Senator and knows how much I respect him. We do disagree, I think, on one or two important issues in this continuing resolution, to my deep regret, but that does not in any way diminish my great admiration for his ability and the remarkably fine way he has handled that committee. It is by far the biggest committee in the Senate, 29 members. It is a very difficult committee to handle under any circumstances, but this year has been as bad as any year one can imagine, because we have had a change in administrations and their views on cutting spending. This administration cut it very dramatically and want to cut it further, and that has interrupted the committee work very seriously.

Mr. President, I must add that I agree wholeheartedly with the chairman's remarks on the staff. I am very proud of the minority staff, and he has a first-class operation in the staff of the majority of the committee.

Mr. President, we have before us today in the continuing resolution a measure of historic proportions which, in my estimation, would bring about a radical shift in power from the legislative to the executive branch, House Joint Resolution 357, which is intended to continue the operations of the Federal Government until we complete action on regular appropriations bills, would be effective through the end of the current fis-

cal year—September 30, 1982—and would incorporate all but 1 of the 13 regular appropriations bills with which we normally deal.

Mr. President, we have never done that before, never come close to doing anything like that, deliberately planning that we will have a continuing resolution not lasting 30 days, not lasting 45 days, but lasting 10½ months, for the entire year.

What this basically means is that we are attempting to handle funding for the entire Federal Government for the remainder of the fiscal year in a 26-page resolution covering hundreds of departments, bureaus, and agencies and thousands of individual programs. And we are working under an almost unendurable time pressure—we have to complete action on the resolution by midnight on Friday or the entire Government comes to a screeching halt.

There is no way that this body, which many have called the greatest deliberative body in the world—some rather jokingly. Some people still think that we can aspire to that, but I wonder, particularly when we have this kind of situation.

How can we deliberatively and thoughtfully and responsibly process a resolution of this magnitude with any hope of dealing rationally and reasonably with the hundreds of issues that normally rise as we handle individual appropriations bills?

Mr. President, it is often said that the President's authority and power is the power of the sword. He is Commander in Chief of the Army, Navy, and Air Force. The Congress power is the power of the purse. It is embodied in our appropriations actions and we embody all of it in one bill, bring it forward, and say have done with it by midnight Friday. Mr. President, I think we cannot possibly do justice to this process under these circumstances.

In fact, Mr. President, it is almost impossible to determine where this resolution stands in relationship to the President's budget. We are told by the staff that the resolution exceeds the President's September requests by a mere $800 million in budget authority and $2.2 billion in outlays. The Office of Management and Budget claims that the outlay increase is closer to $10 billion. I am inclined to agree with the Office of Management and Budget.

For example, the resolution references the House or Senate passed versions of the Labor-HHS-Education bill, whichever is lower. By doing so, the resolution seriously understates the true cost of the programs covered by this legislation. In point of fact, although the House is $2.1 billion below the Senate for the medicaid, aid to families with dependent children, and guaranteed student loan programs, all of this $2.1 billion and probably more will be required unless the basic law is changed. Thus in this one area the resolution understates costs by $2.1 billion. That is only one of the areas where it understates cost.

Mr. President, the difficulty of determining whether or not this resolution goes most of the way toward meeting the President's September budget reductions or, in fact, is a budget-busting engine of inflation, would be reason enough to be skeptical about the prospect of making the resolution effective for the entire fiscal year. But even more important, by sending the resolution to the President with a September 30 expiration date attached, we are abdicating our responsibility to deal carefully and thoughtfully with the President's budget.

It is true that the resolution incorporates by reference conference reports on many if not most of the regular appropriations bills. To the extent that this is the case, the resolution does preserve congressional prerogatives. However, there are two notable exceptions that account for almost two-thirds of all the spending covered by this continuing resolution. These exceptions are the Labor-HHS-Education and Defense appropriations bills. This covers all spending, and we have not had a chance on the floor to discuss this at all—not 1 day, not 1 hour, not 1 minute.

The resolution incorporates these pieces of legislation at the lower of the House or Senate levels. Furthermore, the resolution states that if either bill has been reported by November 20, it shall be deemed as having passed the Senate.

What does this language mean? It means that we are incorporating in the resolution the Defense and Labor-HHS bills before this body has even had a chance to deal with these pieces of legislation individually. The Defense bill, I point out, is by far the biggest appropriation bill in the history of this Republic—$208 billion in that one appropriation bill.

We are wrapping up all the days and weeks of debate that normally occur when these bills come to the floor, all the dozens of amendments, all the colloquies and criticisms, all the close questioning and careful examination, in 12 to 18 hours of debate at the very most. It means we are helter-skelter pushing these extraordinarily complex pieces of legislation through the Congress from committee through conference in about 3 working days.

Mr. President, I have a great deal of faith in the deliberations of the Appropriations Committee. But I have been on that committee for 20 years, and I have been in this body too long to presume that 29 Senators should or could make the final decisions on all of the vital programs funded through the Defense and Labor-HHS bills. Full and fair debate on the floor of this body is essential if we are to arrive at a balanced judgment regarding issues as diverse as the B–1 bomber and the basic education opportunity grant program. Yet, this is exactly what we will not be doing by passing a resolution that puts into place for a full year the Defense and Labor-HHS bills before these individual pieces of legislation have been considered on the Senate floor.

It may be argued that although the continuing resolution is effective through September 30, 1982, we can pass the Labor-HHS and Defense bills in the interim and they will then no longer be covered by the legislation we enact today. But let us look at what immense power this resolution gives to the President. It means that even if we have the will and ability to pass separate bills, the President has only to veto the bills to continue in place the levels provided for in the continuing resolution. This veto would then have to be overridden by two-thirds of the House and Senate—a difficult task under any circumstances, but a near impossibility as long as the programs are maintained in place through the continuing resolution. Furthermore, I frankly doubt that Congress will be able to resist the temptation to forget these bills once they are incorporated in a full year continuing resolution.

Finally, by wrapping 12 regular appropriations bills into the continuing resolution, we are giving the President a golden opportunity to veto just one piece of legislation and press for an across-the-board cut touching virtually every Federal discretionary program as an amendment to the resolution. This would be an attractive alternative to many.

In fact, I would like to hold down spending any way I possibly can. If it is the only way we can exercise restraint, I might be compelled to support such a proposal. But this approach would do a great injustice to the appropriations process. It would take a meat ax approach to the workings of the entire Government, it would ride roughshod over the prerogatives of the Congress, and it would send a signal to the American people that Congress was incapable of making the tough, hard, individual choices that are the hallmark of a responsible legislative process.

Mr. President, there is one way out of this legislative morass. It is a very simple one. We should extend the continuing resolution only through mid-December and get on with the task of dealing with appropriations bills through the normal legislative process. Six appropriations bills have been approved by conference thus far. A seventh—the legislative bill—is in place for the remainder of the year.

It is ironic that the one measure that affects our operations we have taken care of. We have passed it. But all the other appropriation bills will be dealt with in what I think is, unfortunately, a cavalier manner.

Most of the other bills have passed at least one House of the Congress. We can complete the normal appropriations process by mid-December. We should complete the normal appropriations process by mid-December. And we abdicate a great deal of our power and authority if we do not recognize the facts by terminating this continuing resolution in mid-December and getting on with our business. I will vigorously support all efforts made to change the effective date of the resolution and restore our sense of duty and responsibility.

EXTRAORDINARILY BAD PRECEDENT IN THIS BILL

Mr. President, this is important, and I wish to spell out why I think the date of September 30, 1982, which takes us through the entire fiscal year on a continuing resolution, is such a mistake.

The provisions in the continuing resolution setting September 30, 1982,

as the expiration date sets a very bad precedent and should be both noted and objected to.

President Carter sent his fiscal year 1982 budget to us last January 15. Two months later, in March, understandably, President Reagan sent us his revisions, which he should have.

But only a few weeks ago, in September, just as the appropriations bills were moving at an expedited pace, the President asked us to hold our actions because of changing economic conditions and new proposals which he wished to make.

These proposals were not received until September 30, the day before the new fiscal year began.

Now we are being asked to continue funding the Government under a continuing resolution which would extend for the entire fiscal year.

That is indeed a radical departure from responsible action. It is fraught with danger.

First, and foremost, it reduces the incentive for Congress to actually get down to work and pass specific appropriations for specific line items, programs, and agencies.

Second, it puts a powerful weapon in the hands of the President. He is in a position to veto and, under the existing party divisions in Congress, especially the Senate, to have the veto of any new appropriations bill upheld. The provisions of the continuing resolution in area after area, could thus become the law for the entire year.

Third, in view of the control of the Senate by his own party and the discipline they have shown so far this year, a decision by the Senate leadership not to come forward with additional appropriations bills could also insure that the provisions of the continuing resolution would last all year.

A RADICAL CHANGE IN THE DIVISION OF POWERS

What is being proposed could turn out to be Government by continuing resolution, and that is very bad indeed.

First of all, it is a weak-kneed, cowardly, pusillanimous abdication by Congress of its Constitutional prerogatives.

Under the Constitution, "All legislative powers * * * shall be vested in the Congress."

Under the Constitution, "No money shall be drawn from the Treasury but in consequence of Appropriations made by Law."

Under the Constitution, "Congress shall have power to pay the debts and provide for the common Defense and general Welfare of the United States."

Every single issue affecting the Budget—the power of the purse strings, the power over the debt, the power over taxes, and the power over monetary policy—lies with Congress.

So we are not only abdicating our responsibilities by giving the President and the executive branch massive authority over the details of the budget until September 30, 1982, but also, we affect by a terrible precedent and practice the basic document of our country.

We are changing the balance and division of power and authority given by the Constitution to the Congress and the Executive.

We affect in a drastic way the relationships set out by the Constitution of two of the three independent branches of the Government.

It is one thing for us to pass a stop-gap measure of a week or so. It is quite another for Congress to essentially delegate massive control over spending, the budget, and the purse strings of the Government to the executive branch for an entire fiscal year.

And by using the power of the veto over future appropriations bills or by party decisions to block further appropriations bills in the Senate, congressional power over the purse strings could wither, atrophy, and even die.

What is being proposed in this continuing resolution has far reaching, radical, and dramatic potential effects and consequences.

The Senate and the House of Representatives should stop and consider before making such a massive grant of power to the Executive in the area of the budget and the Government's purse strings which is a constitutional prerogative of the legislative branch.

It is one thing for an Executive to usurp power. But it is even worse for the legislative branch to give up or delegate its authority mindlessly and without a struggle.

The President has not asked for this. As far as we know he does not want it. There is no indication the President wants us to give this for an entire year. We are handing it to him.

We should consider the unprecedented consequences of our actions before putting the stamp of approval on this resolution and its radical provisions.

Mr. President, I thank my friend from Oregon and yield the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an explanatory statement of the Committee on Appropriations on House Joint Resolution 357 as reported, with amendments.

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

EXPLANATORY STATEMENT OF THE COMMITTEE ON APPROPRIATIONS ON H.J. RES. 357 AS REPORTED, WITH AMENDMENTS

The appropriations process this year has been forced to endure an unprecedented number of delays and major budget revisions. The process was set back 2 months at the beginning of the year while the Committee awaited President Reagan's revisions to President Carter's budget requests.

Then, just as appropriations bills began moving in the Senate, President Reagan, responding to worsening economic conditions, asked the Committee to halt action on these bills in order that we might consider a new round of budget reduction proposals.

These new proposals were received by the Appropriations Committee on September 30, the day before the beginning of fiscal year 1982.

When action on 1982 bills was suspended, the Senate Committee on Appropriations had reported three bills for Senate action.

The President's recommendations were carefully considered, regardless of the status of a particular appropriation bill in the legislative process.

For example, a conference report on the bill to provide appropriations for the Department of Housing and Urban Development and Independent Agencies had been adopted in the House.

Yet the Senate Appropriations Committee has, in H.J. Res. 357, made further reductions in programs covered in that bill amounting to almost $2 billion.

Total Committee reductions since receipt of the President's September message amount to over $5 billion in budget authority and over $2 billion in outlays.

The continuing resolution as reported would set spending at a level very close to the President's September request. Newly created budget authority amounts to $432.5 billion, only $.8 billion above the President's. Estimated outlays are $417.4 billion, $2.2 billion above the President's.

With the Committee's action on November 17 ordering the defense appropriations bill reported, Committee action on all regular 1982 appropriations bills has been completed. Eight of the thirteen bills have passed the Senate, leaving five awaiting floor action. Conference reports on five bills have been filed.

H.J. Res. 357 should be viewed as a stop-gap funding measure despite its September 30, 1982 expiration date. It remains the firm intention of the Committee to press ahead with Senate action on regular appropriation bills. Upon enactment of a regular appropriation bill, the continuing resolution provisions pertaining to that bill are superseded. Thus, although programs are protected under this resolution for a full year, the Senate will have the opportunity to seek further savings in appropriated programs through the normal legislative process.

SECTION-BY-SECTION ANALYSIS

Section 101(a) provides continuing authority for four appropriations bills—Defense, Military Construction, Labor, Health and Human Services, and Education, and Related Agencies, Treasury, Postal Service, and General Government. Under this section, where an amount which would be made available or authority which would be granted under appropriation bills passed by the two Houses are different, the lesser amount and the more restrictive authority applies.

However, where an item is included in only one version of an act, the project or activity shall be continued under the authority granted by the one House, but at a rate for operations equal to the equivalent to the lower of the current rate or the rate as adopted by the one House. For the purposes of this joint resolution, an act reported to a House but not yet passed shall be deemed passed.

Section 101(b) provides continuing authority for Foreign Assistance programs under the authority and at the rate as adopted by the Senate on November 17. Programs for foreign assistance are in the third year of being funded by continuing resolutions. The Committee is deeply concerned with this situation, especially given the fact that the base for the current continuing resolution is based on essentially fisal year 1979 budget levels, directives, and policy.

It is, therefore, recommending a level of funding and policy based on S. 1802, the Foreign Assistance Appropriations legislation originated by the Senate. The Committee feels this unusual action is required in order to give the administration the tools necessary to carry out an effective foreign assistance program.

The funding levels provided by this action, except for the Export-Import Bank, are well within the President's September revised budget request.

Section 101(c) provides continuing authority for activities funded in the District of Columbia Appropriation Act under the authority and at the rate provided in the conference report and joint explanatory state-

ment of the committee on conference filed in the House on November 12.

Section 101(d) provides continuing authority for activities included in the Energy and Water Development Appropriation Act as provided by passed on the Senate on November 5.

Section 101(e) provides continuing authority for activities provided for in the Department of Transportation Appropriation Act as reflected in House Report 97–331.

Section 101(f). Since the adoption on September 11, 1981, of the HUD-Independent Agencies Appropriations Conference Report (H.R. 4034) by the House, the President announced his second round of budget reductions. The adoption of these recommendations would result in numerous changes in the conference agreement. In fact, most of the administration's proposals have been incorporated in the Senate amendment. At the same time that the Committee recommends these changes, it notes that the terms and conditions, including specific earmarkings, contained in the conference agreement and the Statement of Managers (H. Rept. 97–222), still represent the legislative history and intent. The Committee expects the agencies funded through H.R. 4034 to act accordingly.

The highlights of some of the more significant changes being proposed in the conference agreement follow.

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Annual contributions

The conference agreement provided $17,939,370,000 in budget authority and $916,233,800 in contract authority for assisted housing. The amended conference agreement would reduce budget authority to $17,373,528,040 and reduce contract authority to $885,735,427. However, the new and existing housing mix would be essentially the same as contained in the conference agreement, rather than the September request.

Housing for the Elderly or Handicapped Fund

(Limitation on Direct Loans)

The conference agreement provided a loan limitation of $830,848,000 for the section 202 housing program for the elderly or handicapped program. While the administration's proposal would reduce the loan limitation to $728,746,000, the amended conference agreement would retain funding at $830,848,000.

In March, the request by the administration was $830,848,000 which was the same as that available in fiscal year 1980 and fiscal year 1981. Due to inflation, however, the number of units would decrease from 18,000 in fiscal year 1981 to 17,200 under the March level. The 12-percent reduction proposed by the administration would further reduce the number of units to 15,100.

Data compiled in August 1979, indicated that the potential eligibility for section 202 of individuals 62 years or older is over 9.3 million. In fact, during fiscal year 1981, HUD received over 1,200 applications totaling $33 billion for approximately 75,000 units.

Payments for operation of low-income Housing projects

The conference agreement provided $1,204,600,000 for the operation of low-income housing projects. As proposed by the administration, the amended conference agreement would reduce funding to $1,060,048,000 If this amount proves unsatisfactory, the Committee will consider providing a supplemental appropriations at a later date. In addition, the Committee notes that the $148,000,000 supplemental for fiscal year 1981 operating subsidies has been maintained in the amended conference agreement.

Temporary mortgage assistance program

The conference agreement deleted language proposed by the Senate which would have provided $75,960,000 for the temporary mortgage assistance program. The amended conference agreement would reinstate the language proposed by the Senate, thereby permitting possible savings in the FHA fund during fiscal year 1982.

Community planning and development

The conference agreement provided $3,666,000,000 for community development block grants. The amended conference agreement would reduce funding to $3,450,000,000. The conference agreement also provided $500,000,000 for urban development action grants. the amended conference agreement would reduce funding to $440,000,000.

TITLE II—INDEPENDENT AGENCIES

Environmental Protection Agency

The conference agreement provided $583,747,000 for EPA's salaries and expenses. As proposed by the administration, the amended conference agreement would reduce funding to $512,837,000. The conference agreement also provided $421,840,500 for EPA's abatement, control and compliance. The amended conference agreement would reduce funding to $377,194,200.

Although the administration has proposed reducing the funds available for the hazardous substance response trust fund by $24,000,000, the level recommended by the Committee retains the original conference agreement of $200,000,000.

Currently, EPA estimates that between 10,000 to 15,000 sites will require specialized assessments or investigations to determine if a significant public health problem exists and 1,000 to 2,000 of these sites may prove to be major health or environmental problems.

The 12-percent reduction proposed by the administration could reduce the number of sites where immediate removal action is planned from 125 to 110; reduce site inspections from 1,500 to 1,000; and reduce site investigations from 300 to 200.

National Aeronautics and Space Administration

The conference agreement provided $4,973,100,000 for NASA's research and development. While the administration has proposed reducing funding to $4,591,900,000, the amended conference agreement provides $4,791,900,000.

The proposed 12-percent cut by the administration of $311 million comes on top of the March reduction of $603.5 million. Cuts of this magnitude would fundamentally change the character of NASA through the elimination of the space science and applications programs.

In providing an additional $200,000,000 above the administration's proposal, the amended conference agreement would continue to provide $70,000,000 for programs earmarked in the original conference agreement (House Report 97–222, page 9). The remaining $130,000,000 would go for aeronautics, space sciences, space and terrestrial applications and space technology.

In addition, the conference agreement provided $1,114,300,000 for NASA's research and program management. While the administration has proposed reducing funding to $1,083,300,0000, the amended conference agreement provides $1,099,300,000.

Federal Emergency Management Agency

The conference agreement provided $134,789,000 for State and local assistance. As proposed by the administration, the amended conference agreement would reduce funding to $122,134,320. In addition, the conference agreement also provided $65,456,000 for emergency planning and assistance. As proposed by the administration, the amended conference agreement would reduce funding to $60,087,440.

However, in accepting the administration's recommendation, the Committee did not agree that FEMA's fire research effort at NBS should be terminated and, therefore, directs that FEMA make $4,000,000 available for this effort as envisioned in the March budget revisions.

National Science Foundation

The conference agreement provided $1,040,000,000 for NSF's research and related activities. The administration has proposed reducing funding to $897,688,000, a 12-percent reduction from the March request of $1,020,100,000.

The amended conference agreement would provide $950,000,000. Providing $52,300,000 over the administration's proposal, would result in the awarding of 9,446 grants or an increase of 457 grants over the requested level and a decrease of 879 grants below the March level. This level of funding would maintain NSF's research and related activities at slightly above the fiscal year 1981 level.

In addition, the conference agreement provided $27,450,000 for science education and engineering activities. The administration has proposed reducing funding to $8,712,000, a 12-percent reduction from the March request of $9,900,000.

The amended conference agreement would reduce funding to $20,000,000. Providing $11,288,000 above the administration's proposal, would result in the awarding of 2,222 grants or an increase of 1,206 over the requested level and an increase of 1,106 grants above the March level.

Veterans Administration

The conference agreement provided $12,881,600,000 for compensation and pensions. As proposed by the administration, the amended conference agreement would increase funds to $13,824,000,000. This increase, which usually is transmitted as a supplemental, covers the full year costs of the activities under this account.

The conference agreement also provided $1,638,300,000 for readjustment benefits. As proposed by the administration, the amended conference agreement would increase funds to the expected full year costs of this account.

In addition, the conference agreement provided $6,966,418,000 for medical care. Although the administration has proposed reducing funding to $6,669,491,000, the amended conference agreement would retain funding at $6,966,418,000.

Furthermore, the conference agreement provided $659,512,000 for the VA's general operating expenses. The administration has proposed reducing funding to $603,728,000. The amended conference agreement, however, would retain funding at $659,512,000. If the proposed reduction were taken, the results would be to reduce payments to State approval agencies; consolidate regional offices; and close the St. Paul data processing center.

Finally, the conference agreement provided $434,603,000 for the construction of major projects. As proposed by the administration, the amended conference agreement would reduce funding to $378,338,000.

National Institute of Building Sciences

The conference agreement provided $1,500,000 for the salaries and expenses of the National Institute of Building Sciences, rather than $500,000 as proposed by the administration and the House. While the administration has proposed a 12-percent reduction from the March request of $500,000, the amended conference agreement would retain funding at $1,500,000.

A final $1,500,000 appropriated in fiscal year 1982 will save administrative costs for

the Institute, the executive branch and the Congress. In addition, with a final appropriations of $1,500,000, the Institute will have adequate resources to achieve permanent funding.

General Services Administration

Consumer Information Center

The conference agreement provided $1,344,000 for the Consumer Information Center, as proposed by the Senate, rather than $1,314,000 as proposed by the House and the administration. The additional $30,000 would be used to conduct a study to determine the feasibility of charging customers a handling fee on free publications. While the administration has proposed a 12-percent reduction from the March request level, the amended conference agreement would retain funding at $1,344,000.

Neighborhood Reinvestment Corporation

Payment to the Neighborhood Reinvestment Corporation

The conference agreement provided $14,450,000 for payments to the Neighborhood Reinvestment Corporation, rather than $14,950,000 as proposed by the Senate and the administration. While the administration proposed a 12-percent reduction from the March request of $14,950,000, the amended conference agreement would retain funding at $14,450,000.

A further reduction of $1,294,000 would result in the elimination of 10 new neighborhood programs as well as 4 new NHS program starts with an estimated reduction of $40,000,000 in private investments. In addition, there would be a reduction in training and assistance which help maintain the effectiveness of existing programs.

Consumer Product Safety Commission

The conference agreement provided $32,983,000 for the salaries and expenses of the Consumer Product Safety Commission. While the administration has proposed reducing funding to $29,025,000, the amended conference agreement will retain funding at $32,983,000.

The January budget request was for $44 million and 880 FTE. The March request reduced CPSC's budget to $32,983,000 and 697 FTE. A further 12-percent reduction as proposed in September would leave only 219 FTE.

Section 101(g) provides continuing authority for programs covered by the Department of the Interior and Related Agencies Appropriation Act as specified in House Report 97–315, the conference report and joint explanatory statement of the committee on conference.

Section 101(h) provides continuing authority for programs covered by the Agriculture, Rural Development and Related Agencies Appropriation Act as specified in House Report 97–313, the conference report and joint explanatory statement of the committee on conference.

Section 101(i) provides continuing authority for operation, improvement, transfer, and closure of Public Health Service hospitals and clinics at a rate not in excess and under the conditions specified in the budget estimate transmitted November 9, 1981.

Section 101(j) extends the pay cap provisions of section 305 (a), (b), and (d) of H.R. 4120, the Legislative Branch Appropriation Act, 1982 through September 30, 1982.

Section 101(k) provides continuing authority for programs covered by the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, at the rate specified in H.R. 4169, as reported by the Senate (S. Rept. No. 97–265), and as amended by the Senate through November 16, 1981. The Committee amendment also provides that these funds shall be available under the authority and conditions in the 1981 Appropriation Act for these agencies. Thus, the restrictions on spending authority that exist under current law will continue to apply.

Section 102 provides that authority granted under this resolution shall be available until September 30, 1982, or enactment into law of the regular appropriation bill for a department or agency, whichever first occurs.

Sections 103 through 106 are standard provisions designed to insure fiscal integrity.

Section 107 of the reported continuing resolution provides $20,790,000 for a health professions teaching facility grant to assist in the establishment of the Institute for Advanced Biomedical Research at the University of Oregon Health Sciences Center, School of Medicine, Portland, Oreg.

The Institute will provide teaching/research laboratories and classrooms to accommodate teaching faculty and students in basic and clinical sciences programs. The facility is required in response to the need for containing the rising costs of health care by learning, and through research, to prevent or cure human diseases. In addition, the facility is intended to support staff members, students, and programs that will serve as models for the next generation of physicians, nurses, and dentists thereby enhancing the quality of clinical practice in the Pacific Northwest.

The project will further enable the Health Sciences Center to engage in programs relating to brain science, immunology, genetica, cancer, and other biomedical disciplines that would afford access to new therapeutic drugs and measures essential for patient care.

The Committee has recommended a new section 108 which provides an aggregate appropriation of $869,240,000 for the Postal Service under this joint resolution, within which $230,000,000 shall go for so-called public service subsidy activities and the balance of $639,240,000 shall be available for so-called revenue foregone subsidy activities, including $20,000,000 specifically earmarked for second- and fourth-class mailers.

This provision will help to offset the significant postal rate increase that would otherwise affect these classes of matters. At the same time, the Committee has proposed an offsetting reduction of $20,000,000 in the public service subsidy to cover this add-on for second- and fourth-class revenue foregone subsidies.

New section 109 preserves the prerogatives of the House and Senate Committees on Appropriations and, indeed the Congress itself, to decide how appropriated funds will be expended. This new section will allow both the House and Senate time to review the proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms and, if necessary, to disapprove such reorganization.

Section 110 provides a 2-percent transfer authority amendment between Treasury appropriations enabling the Department to move up to 2 percent of appropriated funds from one account to another. In view of the rigid fiscal restraints placed on the Department under the revised fiscal year 1982 budget, the Committee felt that this transfer authority was essential to allow the Secretary to sustain his critical Treasury functions.

The Committee has approved language in the bill (sec. 111) which permits the initiation of a number of Federal building fund projects which were approved by the Committee on September 15, the date on which the Treasury, Postal Service appropriation bill was originally marked up.

Without the language, these critical building projects could not get started since they are currently not contained in the House-passed version of H.R. 4121—the Treasury, Postal Service appropriation bill, 1982. These projects include a border station in San Luis, Ariz.; a courthouse project in Ashland, Ky.; a Federal building in Omaha, Nebr.; a courthouse project in Charleston, S.C.; advance design for a Bonneville Power Administration building; and a lease construction project in Tallahassee, Fla.

The Committee has included language in the joint resolution (sec. 112) to prevent the termination of the tax-exempt, small issue industrial development bond (IDB) program by the Internal Revenue Service through administrative action. The Committee believes IRS Revenue Ruling No. 81–216 may have run counter to the long-standing practices by States of pooling multiple lots of small issue IDB's into a single bond offering. Therefore, the language included in the joint resolution would effectively vitiate this ruling.

The Committee has approved language in the resolution (sec. 113) which expresses the sense of the Senate that the President of the United States not propose reducing Federal tax incentives for energy conservation or the development of renewable energy sources. In approving such language, the Committee lends its support for a continued commitment to reducing American dependence on imported petroleum and reducing uncertainty concerning the continuation of the tax incentives for energy conservation and renewable energy sources.

The Committee is aware that any interruption in funding for the supplemental food programs for women, infants, and children (WIC and CSFP) could have serious consequences on these programs and, potentially, on the health of the program participants.

The Committee, therefore, has included language (sec. 114) which directs that funds provided by the joint resolution for these programs be allocated immediately upon enactment in the amounts and manner prescribed in H. Rept. 97–313 for the first quarter of fiscal year 1982. This would include an annual funding level of $31,000,000 for CSFP.

Any delay or interruption in the funding, or any allocation level that is not consistent with the conference agreement on the Agriculture, Rural Development, and Related Services Appropriation Act, 1982, regarding WIC participation levels, would be contrary to the intent of this joint resolution.

Sec. 115. This provision would modify the conference agreement on the Transportation appropriations bill to conform with the language in the Senate-passed appropriations bill. That bill included a general provision limiting railroad branch line abandonments in North Dakota to 350 miles, whereas the conference language was intended to be responsive to numerous requests from Members of Congress to broaden the language to a 3-percent limitation nationwide.

However, since questions have arisen with regard to the applications of that provision to specific rail operations, the Committee recommends the original Senate-passed language. The Committee, however, notes and concurs in the Transportation conference language relating to surcharges, rate increases, and assistance from the ICC section of rail services planning.

Sec. 116. This provision is in response to the refusal of the Urban Mass Transportation Administration to properly interpret the stated intent of the conferees on the Department of Transportation and Related Agencies appropriations bill for 1982. The language would clarify the intent of the conferees, which is clearly set forth in the joint explanatory statement of the managers on that bill.

The Committee has added a new section (sec. 117) which references the Senate provisions regarding impact aid. This will prevent impact aid funds being distributed under the most restrictive provisions of both the House and Senate Labor-HHS-Education bills.

The Committee also added a new section (sec. 118) providing that medicaid reimbursement for Indian Health Services facili-

ties shall continue to be 100 percent federally reimbursed.

The Committee has provided $1 million for 20 positions, to be set aside from the account of the Office of the Assistant Secretary for Health to operate the Office of Adolescent Pregnancy in the Department of Health and Human Services for the duration of this resolution (sec. 119). This authority is needed in order to maintain the option for the Congress to consider funding mechanisms for the adolescent family life program which would be administered by the Office.

The Committee has included bill language (sec. 120) already agreed to on the fiscal 1982 Labor-HHS-Education appropriations bill relating to the classification of potash mines by the Labor Department. The amendment requires the Labor Department to go through formal rulemaking procedures, rather than issuing new national policy statements by executive fiat, with respect to classification of potash mines as "gassy." It in no way limits mine inspections and, therefore, protects the safety and health of miners.

The Committee has provided for a redistribution of $21,800,000 in several salaries and expenses accounts in the Department of Health and Human Services (sec. 121). The Committee has increased funding of three appropriations by $21,800,000, specifically: Assistant Secretary for Health (program direction and support services), Health Care Financing Administration, program management (administrative costs), and general HHS departmental management. These restorations will help assure continuation of certain priority activities. At the same time, the Committee has agreed to a $21,800,000 offsetting reduction in other salaries and expenses areas (sec. 122). This, in effect, reinstates the HHS portion of a salaries and expenses reduction passed by the House in H.R. 4560. In distributing this reduction, the Committee will expect to be consulted by the Secretary of HHS concerning the areas where he proposes to make cutbacks.

It is the intent of the Committee that this joint resolution contains funds for the Health Resources Administration to maintain sufficient staff—693 direct positions and 34 reimbursable positions—to administer ongoing programs.

The resolution provides that funding for assistance to areas impacted by Cuban and Haitian entrants shall be at the levels, and under the terms and conditions of the Senate Labor-HHS-Education Appropriations Act (sec. 123). This provision is particularly necessary to allow the special setaside of education funds for Dade County, Fla., which has had to absorb over 15,000 new students.

Effect of Senate and House committee reports

The Committee directs that the Departments and agencies covered under this joint resolution to follow the guidance provided in all relevant House and Senate Appropriations Committee reports in carrying out their programs. Where only one House has provided specific guidance with regard to a program or issue, the report language of that House should be followed. When the reports of the House and Senate Committees are conflicting, the Department and/or agency shall take expeditious action to notify the Committees of this disagreement and to request a resolution.

Mr. ROBERT C. BYRD. Mr. President, I shall suggest the absence of a quorum. I ask unanimous consent that I be recognized following the quorum to call up an amendment.

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

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

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

Mr. ROBERT C. BYRD. Mr. President, the committee amendments have not yet been adopted en bloc. I have discussed this request with the distinguished chairman of the committee.

I ask unanimous consent that I may be permitted to offer an amendment to the bill notwithstanding the fact that the committee amendments have not been adopted en bloc.

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

UP AMENDMENT NO. 651

(Purpose: To change the date until which funds may be available to December 19, 1981)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 651:

On page 18, line 18, strike out "September 30, 1982" and insert "December 19, 1981".

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

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I am attempting here to change the expiration date for this continuing resolution from September 30, 1982, to December 19, 1981, which would be 4 weeks from this coming Friday.

I offer this amendment today not to obstruct in any way the continued operations of the Federal Government but rather to try to insure that the Government does operate under the security of final appropriations bills, and to the extent that such bills are not enacted finally, then, of course, under the security of a final appropriations act such as the continuing resolution.

There will be considerable discussion about the time constraints surrounding this continuing resolution. It is true that a continuation of funding must be in place by this coming Friday midnight, and my amendment does nothing to hinder that necessity.

On Tuesday, November 10, the President during his press conference complained, and rightly so, that Congress had not sent him one of the regular appropriations bills for fiscal year 1982.

My amendment would insure that Congress will address the President's concern.

We are told that the regular appropriations bills will be considered, that the defense bill will come to the floor for consideration, that the Labor-HSS bill will come to the floor for consideration, that the Treasury-Postal Service bill will come to the floor for consideration, and that the various conference reports on those and other appropriations bills will come to the floor for consideration.

But the Senate has had the HUD conference report since September 15 and we have not had that conference report brought to the floor. The appropriations committees have completed conferences on five appropriations bills. The House of Representatives passed and sent two of them to us and the Senate has not considered them.

Appropriating funds is among the major responsibilities of Congress. The people who elect us to represent them expect us to do just that, to represent them, to discharge our responsibilities.

There are major spending bills that have not had consideration other than by the 29 Senators who are privileged to serve on the Appropriations Committee. The entire Senate needs to exercise its responsibilities and to give full deliberation to those bills. Then both the House of Representatives and the Senate should work out the differences and both bodies agree or disagree to the compromise.

Here we have, Mr. President, a huge bill that will operate for a full year, until September 30, with not a single regular appropriations bill having reached the President's desk.

From time to time the Senate and the House of Representatives have adopted continuing resolutions as stopgap measures to provide funding for agencies for which regular appropriations bills have not yet passed Congress and been signed into law by the President.

Those continuing resolutions are precisely what I stated. They are stopgap appropriations measures. They are to fill the interim gap created by the fiscal year's beginning date having passed and until such time as the appropriations bill for that particular fiscal year has been enacted into law.

But now here what we see is a continuing resolution that would extend until next September 30, the end of the 1982 fiscal year, and wrapped up in that continuing resolution would be presumably the funding for all of the departments and agencies of Government that are normally funded through enactment of 13 regular appropriations bills, not counting supplementals and so on.

This, of course, is a subversion of the appropriations process.

It opens the way for an omnibus appropriation bill in the future in the form of a continuing resolution.

It may very well be that at some future time Congress would want to adopt rules and procedures allowing for appropriations to be made through an omnibus bill, and I have always felt or have long felt there are some things that can be said in support of that approach. But as of now we do not have that procedure. We are still operating under the rules and precedents of a good many years, and certainly through this year the House has passed a number of appropriation bills, sent them to the Senate. The Appropriations Committee of the Senate has taken up a goodly number of

those appropriation bills and has acted on them. But they have not been acted on by the full Senate. As I say, some of the conference reports that are ready for action in the Senate have not been taken up in the Senate.

So here we are now up against a deadline of Friday night of this week midnight. Agencies and Departments of Government would be unable to operate thereafter, social security checks, veterans checks, checks to the military, Federal employees, and so on, would not be sent out. Yet now we find ourselves in this kind of a box and faced with that situation, but also faced with the situation of not having finally sent to the President of the United States a single appropriation bill.

So this approach, as I say, perverts the normal committee process, the normal appropriations process, and it is a very serious precedent to have facing us. I think it deprives the Senate of the kind of contemplation that it should give to each of the appropriation bills, and it is for those reasons that I have sent the amendment to the desk.

The appropriating of funds is among the major responsibilities of Congress, as I state, and the entire Senate needs to exercise its responsibility and give full deliberation to all of the appropriation bills.

A full year's continuing resolution would not advance the decisions of the Senate which it has already made.

At this time four major appropriation bills have not been acted upon for inclusion in the continuing resolution, and the full Senate has never had the issue before it.

So in adopting an emergency stopgap measure it seems to me that we are very hard put to explain the providing of funding for, perhaps, a full year as an emergency or as a stopgap measure.

The Senate Appropriations Committee has done a remarkable job. The chairman of that committee, Mr. HATFIELD, has demonstrated the highest degree of fairness and dedication, integrity and purpose, and has done an extraordinary job. The other members of the committee, the ranking member, Mr. PROXMIRE, and all other Members on both sides of the aisle have dutifully approached their task and that committee has reported all of its bills.

As I look at the calendar, the committee has reported all of its bills, that is correct, and I am now looking at the status of appropriation bills, first session, 97th Congress. The Appropriations Committee has reported every regular appropriation bill. Two of them have passed the Senate and gone through conference and conference reports are awaiting action in the Senate—four have proceeded to that status.

What are we going to do about all of these appropriation bills? What is going to happen to these conference reports? Are they all going to be folded into this continuing resolution, which is meant to be a stopgap measure or are we going to take up those four conference reports and the remaining appropriation bills and act on them as we have heretofore?

As I say, heretofore there usually have been one or two bills, especially foreign operations or foreign assistance, that have not made it, and possibly one or two others where there has had to be a stopgap measure.

But never before have we seen this situation in which conference reports on appropriation bills await action here at the bar of the Senate; other appropriation bills have been reported from the Senate Appropriations Committee under the able leadership of Mr. HATFIELD and Mr. PROXMIRE, and yet the Senate does not take them up.

So the President was justified in complaining about the fact that not a single appropriation bill has been sent to him by Congress.

But here we find ourselves, therefore, without taking action on those bills and about to take action on the continuing resolution, which will wrap everything therein, and have a date, September 30 next year, which is the end of the fiscal year. So we might as well just quit and go home, pass continuing resolutions for a year at a time and take some of the burdens off the Appropriations Committees, and the Senate will not have to deliberate on 13 appropriation bills. Just pass one continuing resolution so that we avoid adequate debate on each department's funding request, we avoid the usual debate on the various agency requests, we obviate the opportunity to amend 13 appropriation bills that deal specifically with certain appropriation items.

We simply take up one continuing resolution, have it extend to the end of the fiscal year, September 30, and then begin anew and adopt a continuing resolution for the next year, but wait until the last 2 or 3 days before that expiration date is upon us, and then come with that continuing resolution to the floor.

There is obviously no time left to scrutinize carefully the items on the continuing resolution, and very little time left to debate them.

This continuing resolution was reported out from the Senate Appropriations Committee yesterday. There is no report accompanying it. I am a member of the committee and I find no fault with that under the exigencies that confronted the committee. To have a report accompany the continuing resolution from the committee would have meant the 3-day rule would have prevented taking up the continuing resolution this week probably unless a unanimous consent were given, which means that any one Senator could have objected to proceeding to this continuing resolution.

I find no fault with the committee. The committee was acting under extenuating circumstances. But that is what we are going to be faced with every year, the last 2 or 3 days just before the date of the expiration of the continuing resolution here, we will have the continuing resolution for a year that will extend to the following September.

Every Senator should be zealous not of his rights and prerogatives so much as the responsibilities he has to carry out his duties to his constituency and the right of his constituents to have these matters debated thoroughly and openly.

I shall shortly send to the desk an amendment in the second degree which provides for a December 18 date rather than a December 19 date. My amendment would not obstruct the action on this continuing resolution. It would simply mean that by 4 weeks from this coming Friday this continuing resolution would expire, thus giving the Senate time during that 4 weeks to take up, in an orderly manner, the remaining appropriation bills, the conference reports, carefully study them, debate them, and act upon them and, by virtue of such action as the Senate acted on each appropriations bill, to that degree it would be unnecessary to have a continuing resolution at the time this continuing resolution resolution would expire on December 18.

I think it is a reasonable request. I think it is our duty to demand that those appropriations bills be brought up in this body. I think it is our responsibility to the people to be able to debate each of those bills and the conference reports thereon and avoid adopting a continuing resolution that provides for the funding of various departments for an entire year—an entire year. I think we will be remiss in our duties if we do not follow the normal appropriations process and set a new expiration date here which would require us to again face this matter by December 18.

I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I will be very brief, because I understand the Senator from Mississippi, who is the senior member of the committee on both sides of the aisle, wishes to speak on the amendment of my good friend from West Virginia.

UP AMENDMENT NO. 652

(Purpose: To change the date until which funds may be available to December 18, 1981)

Mr. ROBERT C. BYRD. Madam President, I send my amendment in the second degree to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER (Mrs. HAWKINS). The clerk will state the amendment.

The bill clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 652 to unprinted amendment numbered 651:

In the matter proposed to be inserted, strike out "December 19" and insert "December 18".

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

Mr. PROXMIRE. Madam President, I congratulate my good friend from West Virginia not only on his amendment but on his excellent statement with which I agree, of course, wholeheartedly.

In the course of his statement, the Senator from West Virginia spoke about the possibility of sometime having an omnibus bill that would embrace all the appropriations at one time. This is an interesting notion. But I think we ought to be very clear of the distinction between having that kind of an appropriation bill and what we have before us.

I recall very well the Senator from Washington, the former chairman of the

Appropriations Committee, Senator Magnuson, suggesting that maybe we should do what some State legislatures do; in other words, have 1 year on authorizing legislation of various kinds and 1 year—1 year—devoted to discussing appropriations.

Now, if we had an omnibus bill, I presume we would take at least a month on it. But, in this case, we have 3 days—3 days—to discuss the 12 appropriations bills. With all fairness, after all, two-thirds of the spending is involved in the Defense appropriation, Labor-HHS appropriation, neither of which we have had 1 minute to discuss on the floor of the Senate. So we are passing—brought before us, as the Senator from West Virginia has said so well, brought before us for a full year—measures that may have the force of law until the end of the fiscal year, without any real opportunity to go into the kind of deliberations, the kind of discussions, and the kind of considerations that we should have.

In addition to that, there will be no chance in conference for any detailed examination of this bill. So that the whole process of debate, discussion, deliberation, conference consideration and recommendation to the Senate is to be abbreviated, as I understand it, under the bill as proposed, to just 3 days.

I might point out the President of the United States, President Reagan, has not asked for this. He has not indicated he wants it. So it seems to me the amendment offered by my good friend from West Virginia is a logical amendment, a sensible amendment. It would keep the Senate on the right track. I am certainly delighted to support it.

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

Before I yield the floor, I want to say that the September 30, 1981, date is not in the continuing resolution by virtue of any action that could be assigned to the Senate Appropriations Committee. That language was in the continuing resolution when it came over from the other body. So I do not attempt to assign any blame here or any fault. I am simply trying to correct what I think is a mistake—not a mistake, but correct an action which will prove to be a mistake.

I yield to the Senator from Mississippi.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Madam President, I shall not detain the Senate very long. But I do believe there are some outstanding points about this proposal here and the course it can take that ought to be called to the special attention of the Senate. For that reason, I ask that we might have quiet and ask those who have conferences about other things to subside so we can concentrate on this.

Madam President, in the first place, the Senator from Oregon has done a remarkable job, an extensive piece of work, day and night all year. He has classed himself already with some of the great chairmen that I have known—Bridges of New Hampshire, for one; Russell of Georgia; an outstanding one, who was not chairman, but Saltonstall of Massachusetts; and the great Margaret Chase Smith of Maine, as well as others. It is amazing the way he has gathered all of this together under the pressure of time and the changes that were made in the request and the little time he had compared with the pressure on other fronts this year with reference to Mr. Reagan's plan. I am really proud of him as a fellow Member of this body and commend him highly for what he has done.

I do not believe, though, that this proposal is one of his better days or one of his better scores in connection with subordinating the whole appropriation family to a little continuing resolution concept that is, more or less, not an illegitimate child but kind of spawned in distress or pressure in the last 20, 25, or 30 years, the continuing resolution.

As I said yesterday, you would have been laughed out of town if you had proposed that we put the whole calendar, the whole year, under the provisions of a continuing resolution, unless the world had caught fire all of a sudden or something like a nuclear war was going on. Those things would just not have been tolerated here just a few years ago.

I have not heard anything about the President asking for this procedure here to provide to cover the whole year under a continuing resolution.

Mr. President, the real rub of this thing is it is an invasion of the rights and prerogatives and responsibilities carried on in an ordinary way in the Appropriations Committee of the U.S. Senate. You can say what you will, but there is where the Senate does its effective work. That is where it perfects the language and sentences into sound law. That is where the comparison work is done day and night and month after month. That is where the work is carried on by highly competent staff members—many of them are—with years of experience and knowledge and know-how, who know something about all the branches of Government and a great deal—a great deal, indeed—about the ones that they are working on.

Now, are we just going to have a scare story? I have not even heard a scare story. No other reason has been given for the Senate not to play its normal role to operate through these committees and come back here with reasoning and commonsense and wisdom, if I may use that term, cranked into the terms of these bills according to the membership's work and according to the best that they could do with the problem.

I take this quite seriously. The Senate will regret the day, I think, if they just abandon all these items of procedure, work, and the carrying on of the real matters assigned to them under the Senate rules, which I have outlined.

I cannot find any mention in the rules of the words "continuing resolution." They may be there. As I remember the ancestry of this, it was just devised to cover a few days' time.

Madam President, will you ask staff members to cease their conversations for just a few minutes?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. The continuing resolution is to continue operations for a few days, taking the best figures available, current law, continuing the operations of the Government during that span of time.

It is really just a kind of authorization resolution and an appropriation resolution all cranked into one, and it serves a good purpose. It will serve a good purpose here. I have no objection to it being used in its normal fashion.

But, Madam President, no reason has yet been given for this idea of covering the whole year. I emphasize that the President has not said that things are in such a turmoil at home, abroad, or anywhere, that he needs all this authority to operate. Just as sure as we set up this precedent, abuses of it will come, repetition of it will come. We will rue the day when we set up here as respected proceedings, respected on this floor and by the American people, rules like this.

That is what a continuing resolution is. It is a rule, to some degree at best, but for some motive that we cannot even explain ourselves. The reason has not been given and was not given yesterday in the committee meeting.

I do not assign any personal blame, in my mind, to any Member, and I do not want to leave that impression.

I warn, however, that we will rue the day, and we will get into more trouble than we are in already with this year's work, if we now throw this continuing resolution out as the best that we can have and put it on the basis of the rest of the fiscal year.

Just read the resolution and you will see it. It says September 30. It is unbelievable that we could take that seriously and go into this thing blind, making it the law of the land.

I will vote for a lesser time, of course, but I hope it will not end here in just a contest as to who has the most votes to make it 30 days or whether we want to make it 11 months. It certainly ought not be decided on that point.

I hope reconsideration would lead to a meeting of the minds for 30 days, if necessary, and then pass the resolution in the regular way. Certainly, as much as we have already faced this year, we are not ready to run from something just because it is a problem, based on all the problems we have had to vote on in the first 6 or 7 months.

I think Senators have proven their mettle, their political mettle, to the extent that they are willing to stand up and be counted on the hard ones as well as the easy ones. I do not think we are faced with anything that is insuperable from here on out. But whatever it may be, let us face it and do it, rather than to resort to this weaselly method, as I see it, and thereby set a precedent.

The committees are already being inveigled in various ways, some of which I think may be necessary, but this resolution is not necessary in any way.

I want to close by saying that I have no personal grievance with anyone, not any. But we have to stand up and fight for some of the ground rules, for some of the principles involved, for some of the machinery in this body which has proven itself over decades and decades and dec-

ades. If there is a real emergency about something, resort to emergency measures, but believe me this joint resolution is not an emergency and it is not needed. We should go back to the more ordinary methods of meeting these problems.

Madam President, I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I would like to rise for a few brief remarks. First, I would like to associate myself with those great words of wisdom spoken by a very wise man, the distinguished Senator from the State of Mississippi, Senator STENNIS. He has been in this body long enough to have seen the drift of what is happening throughout this appropriations process. I believe he is warning us of a signal danger if we continue to operate this country by way of a continuing resolution of this sort.

I would like to strongly suggest that all of our colleagues in the Senate pay close heed to this very wise man and what he has stated about what we are about to do, with the committee structure, with the appropriations process, and with the decisionmaking that we are on the eve of abdicating, if we do not shorten the time of this particular continuing resolution that is now before this body.

If I might put it this way, Madam President, what we are really doing is we are admitting today on this black Wednesday that we no longer run this system, but the system is now running us.

We have to get control of that system. We do not get control of it unless we run that system. We do not run that system unless we allow the appropriations committee and the authorizing committees to operate in the manner they were intended to operate.

That abdicating is exactly what I fear we are about to do today if we do not shorten the time for this particular continuing resolution.

Basically, as all of us know, this is a piggy-back resolution. We are piggybacking every good and bad program together into one package. As sure as we are in this Chamber this afternoon, we are going to be here at 11:30 Friday evening. We are going to hear voices.

In no way do I impugn the character, the integrity, the ability of my great friend from Oregon, the distinguished chairman of the Appropriations Committee. There is not a more diligent public servant in this country than Senator HATFIELD.

But on Friday evening, Madam President, what are we going to hear? We are going to hear, "Oh, my, no one is going to get their social security checks. No one at the Farmers Home Administration is going to get paid tomorrow. No one out there who is receiving AFDC payments will get their payments on the day they supposed to because the Government is going to shut down."

That is what we are going to be hearing in just a very few hours during the time we are in this Chamber debating this resolution at this time. We have heard it for years and unless we do something about it now, we are going to continue to hear it for years.

What we are going to be doing is grafting onto appropriations bills every popular and unpopular program and cause that we can imagine. We are going to be limiting debate on the B–1 bomber; we are going to be limiting debate on the MX missile; we are going to be basically giving a blank check, I think, to the Pentagon for then next year of over $200 billion—the first time in history that the appropriation has been that high.

We are abdicating our role, Madam President, and I hope my colleagues will listen to the wise words of the distinguished Senator from Mississippi and will support the amendment offered by the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. HATFIELD. Madam President, first, I express my deep appreciation for the generous, kind remarks made by the minority leader and by my very good compatriot on the Appropriations Committee, Senator STENNIS of Mississippi, and the kind remarks made by the Senator from Arkansas (Mr. PRYOR).

Madam President, I think that the minority leader raised a very significant point when he called attention to the fact that this September 30 date was placed on this resolution in the House of Representatives under the Democratic Party that now controls that House. As of yesterday, I discussed the matter with the staff of the Committee on Appropriations and, through them, the chairman of the committee. I discussed the matter with Speaker TIP O'NEILL of the House of Representatives. The Democratic leadership of the House indicated a very strong commitment to the September 30 date.

I just want to raise that as part of the record so there can be no implication here that there is a partisan issue at stake. There is not.

JAMIE WHITTEN, the longtime, very distinguished chairman of the House Committee on Appropriations, said this was debated in the House Appropriations Committee and came out of that House Appropriations Committee with a unanimous vote.

It was debated on the floor of the House, as I say, yesterday afternoon. When I was discussing matters with the Speaker, I asked him about the date and he said,

I support the position of the House and of the chairman of the House Appropriations Committee, Mr. Whitten.

I want to make sure that there is no implication here in any way that this is somehow evolving into a partisan question.

Mr. CRANSTON. Madam President, will the Senator yield?

Mr. HATFIELD. Yes; I am happy to yield.

Mr. CRANSTON. I should like to comment on the Senator's remarks about the partisan nature of this. It is not a partisan issue. It should not be a partisan issue. There are issues over procedure and over preserving the rights of Members of the Senate and the House to have a full opportunity to know what they are doing when they do it, when voting on matters as momentous as those contained in the continuing resolution.

The statements made by the distinguished Senator from Oregon are quite accurate about what occurred in the House. But I do believe many Democrats there are now having second thoughts and perhaps many Republicans are, too. I know it is true on the Democratic side of the aisle there.

The realization is growing there that decisions are being made without adequate knowledge of all the impact in terms of programs and dollars. I think that had the issue come before the House in a situation other than voting on the previous question, which was the parliamentary twist which it took, and had there been time to consider the matter more carefully, we might have found many Members of the House feeling quite differently than was reflected in the vote actually taken in the House.

Mr. HATFIELD. Madam President, I thank the Senator from California. It is the right of anyone to change a view or position on the matter. I only indicate my information as to the leadership position in the House of Representatives.

As I say, the minority leader himself made it very clear that he did not consider this such a matter. I just want to underscore that point made by the minority leader (Mr. ROBERT C. BYRD) here today.

Madam President, I think there is also an assumption that we are somehow extending this for a whole year, meaning there will be little or no action on the part of the Appropriations Committee or the appropriations process. I remind the body that we are functioning now under a continuing resolution, which has in no way inhibited the appropriations process. We have passed 9 of the 13 bills out of the full committee. We have had 7 appropriations bills on the floor and have 5 in conference or completing conference work. All 13 bills have functioned and actually been handled by the Committee on Appropriations.

Remember, Madam President, this is but a contingency as to the question of the future of these bills. In other words, when these bills are completed by Congress and when they are passed by the President, they drop out of the continuing resolution. There is no guarantee or no assumption that should be made that all the appropriations bills are going to continue under the resolution until September 30. But let me just outline the other side of the coin.

I believe that the amendment offered here poses one of the greatest dangers to the appropriations process, far more than anything I have faced since I have been on the Appropriations Committee. I shall state why.

Remember that if we should adopt December 18 as the date for the expiration of the continuing resolution, and assuming that there are unsigned bills that still exist somewhere in the pipeline, let me remind the Members that those bills then under a third continuing resolution are all vulnerable for any amendments, any changes that have been made

in the committees, or any process in the whole appropriation process.

Let me also remind Senators as to even those appropriations bills that have been signed into law we can, in the continuing resolution, go back into those. I, frankly, have, as the Senator from Mississippi, grown weary about having to fight Tennessee-Tombigbee every few months. Let me say to the Senator from Mississippi in all frankness, that could be an issue again on December 18, because that bill is open and vulnerable if it has not been signed into law; and if it has been signed into law, an amendment can be offered to that new continuing resolution that then deletes the money that has already been signed into law. Or that could be true of the Cardinal, a train in Amtrak, or the second powerhouse at Bonneville, or any other action that has been decided by this body. The appropriations process is open totally to a new continuing resolution on anything that has been done, that is being done, or that is in process of being done.

Madam President, let me also indicate that we are facing second concurrent resolution and we shall be into that situation for mandated levels that usurp, some people feel, the appropriations rights. That will be determined by this body through the concurrent resolution process.

Third, let me remind Senators that we shall be involved in the fiscal 1983 year. So, here we are, asking the Appropriations Committee, after going through this long exercise we have gone through in executing our responsibilities on 13 appropriations bills, to open them all up to vulnerability by December 18 again under a third continuing resolution. We are asking the Appropriations Committee to take that responsibility, then to come up with new appropriations measures.

Madam President, let me also say that in this period that we have been under this continuing resolution, there have been new budget requests, new add-ons, new directions; there has been a constant turnover of figures and economic assumptions and budgetary requests and add-ons and subtractions.

No, let me say, we are endangering the appropriations process, putting it into an impossible task if we extend this to December 18.

Let me then speak to the various agencies. What in the world can you expect of a Federal Government in terms of its commitments and its programs, in relation to its Federal programs or the State programs or the county programs or the city programs, if they do not have any kind of understanding of what the base of this operation is going to be? If we extend this to December 18, we are saying to all these agencies, "You can't make decisions, you can't do things that will commit you to a full year." We are creating an impossible administrative task within the agencies to be able to predict and project their commitments and their programs because they do not know what the figure is going to be, only until December 18, and then that can be changed with a new continuing resolution.

All I can say is that if we are anxious to really make a chowder here that is going to haunt us, by dumping in all these things and then stirring them up again and trying to resolve them again within a few weeks or a couple of months, we should support this resolution.

I believe—and I have made my commitment, and I think the record will stand—that we have aggressively pursued the appropriations process during this continuing resolution and we will continue to do so.

The minority leader indicated that we have five bills here waiting in conference or in some process of conference reports. The Appropriations Committee cannot control the business on the Senate floor. We are to control and act upon the responsibilities assigned to us, which we have done. I assure the Senate of my continued vigorous and aggressive assault on that responsibility, to complete the task and to do it in the proper way and in the least time necessary to accomplish it.

So I plead not to open a Pandora's box. That is exactly what we will be doing. We will be opening a Pandora's box again within a few months, with every one of the 13 bills. They will all be subject to having an amendment or a decision that will supersede the actions taken, wherever they may be, even whether they are signed into law.

So this, to me, is not the right direction to take, to make orderly Government possible and to maintain the orderly process of the Appropriations Committee.

I would prefer not to have any continuing resolution. I agree with the Senator from Mississippi: This, to me, is not the way to do business. But the Appropriations Committee does not have an option. We are forced into this situation at this time.

I can only say that I believe that, in spite of that, we have performed our functions and duties in a remarkable way to get these bills out of committee.

I have no assurance that the President will sign any of these bills. The President may decide to veto them, if he thinks we should go back to revising the bills, and so forth. But let that happen in an orderly process of either sustaining the veto or overriding the veto and then having the committee revise it. But do not force us into revising and opening up every one of the 13 bills because the President may have vetoed one.

That is why I say I think the 30th date maintains the appropriations process in a far better way than the 18th of December.

Mr. PROXMIRE. Madam President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. PROXMIRE. Madam President, I know of no one who is more persuasive or eloquent or knowledgeable, for that matter, in this area than the distinguished Senator from Oregon, but I just do not understand his argument. I do not understand the argument.

As the Senator from West Virginia pointed out and as the Senator from Oregon has just told us, we have acted on every appropriation bill. We have finished our committee work on every appropriation bill, without exception. They have all been acted on, as page 32 of the calendar today reports. They are all out of committee.

As the Senator knows, we have sent eight of these 13 bills to conference. The Senate itself has acted on them. So we have only a relatively few other bills for the Senate to act on.

We have until December 18 to do our job; and if we extend this until September 30, it seems to me to signal that we are not going to do that job in some of these cases throughout the entire year.

For the life of me, I cannot understand why, having done our committee work, having reported the bill, having the bill scheduled to be acted on, we cannot act in the next 30 days.

If the Senator will suggest that we extend it until February, perhaps we can work out a compromise. But to have this go until September 30, so that, throughout the entire year, we are acting on a continuing resolution, is beyond this Senator's understanding, as to why we have to do that. I do not see any merit in it.

Mr. HATFIELD. Will the Senator be willing to engage in a colloquy to try to clarify it?

Mr. PROXMIRE. Yes, indeed.

Mr. HATFIELD. Will the Senator describe what happens to an appropriation bill under a continuing resolution once the President has signed it? Obviously, it has passed Congress and has gone to the White House. What happens to that appropriation bill when the President signs it?

Mr. PROXMIRE. As the Senator has pointed out, and as we all know, it simply becomes law. It replaces the provision in the continuing resolution.

Mr. HATFIELD. It supersedes it.

Mr. PROXMIRE. It does.

Mr. HATFIELD. It drops out.

Mr. PROXMIRE. It drops out; that is right.

Mr. HATFIELD. So that that no longer is a part of the continuing resolution.

Mr. PROXMIRE. Yes. And we lose the discipline of having a continuing resolution—discipline on us, discipline on the President, discipline on the House.

Mr. HATFIELD. But we have in this, I remind the Senator, the language of the bills that have not followed into the conference situation. So we are still at a lower level for those bills to be acted upon in conference.

I ask a second question. Let us take this hypothetical situation: Will the Senator tell us what will happen to a bill once it has completed conference but has not been acted upon in the Senate, as to the conference report, such as the HUD bill today and four others we have completed, but which are still here, and the December 18 date comes and goes? What are we faced with then, so far as those bills are concerned that have not been acted upon and sent down to the President? What happens at that point?

Mr. PROXMIRE. Obviously, under

those circumstances, we would have to pass another continuing resolution.

Mr. HATFIELD. A third one.

Mr. PROXMIRE. That is the reason why it seems to me that then we have pressure, we have discipline, we have force, and we have a reason to pass those bills we have not acted upon.

It seems to me that we are asking for a situation in which we are going to be in this never-never land, a kind of area where we have not had discussion, debate, or determination by the House and the Senate, where we have not decided it, because we have kicked away, thrown away, the discipline that would require us otherwise to act.

Mr. HATFIELD. Will the Senator indicate where in the Appropriations Committee or in the appropriations process there has been any evidence of a lack of discipline?

Mr. PROXMIRE. The President, himself, said, as the distinguished Senator from West Virginia pointed out, that he has yet to get an appropriation bill from Congress. Of course, we were supposed to act on that by September 30 of this year, and we did not do it. There seems to be a breakdown somewhere—not of the Appropriations Committee, because we have reported all our bills.

Mr. HATFIELD. So there has been no evidence of a lack of discipline on the part of the Appropriations Committee in performing its function and getting these bills reported.

Mr. PROXMIRE. We could have done a better job. We did not report some of these until September. I have great admiration for the Senator from Oregon. The reason was that the President of the United States asked us to hold off, which we did.

Mr. HATFIELD. Is that an indication of a lack of discipline on our part?

Mr. PROXMIRE. It is not an indication of a lack of discipline on our part, but it is a lack of discipline on the part of the system. The President made his decision to postpone it, and we went along with it.

Mr. HATFIELD. I want to focus on the question of whether or not there has been evidence of a lack of discipline on the part of the Appropriations Committee and the appropriations process, and the Senator has answered that there has not been.

Mr. PROXMIRE. There has been a lack in the process in view of the fact that we have not acted on these appropriations bills by September 30, which we should have done. That is in the process, and it would take time to explain it. I would not put it at the doorstep of the distinguished chairman.

Mr. HATFIELD. I need not go back and review the history, that by September 30 we were in reconciliation and a few other things over which the Appropriations Committee had no control.

We have acceded to the request made by the President.

I challenge this implication that somehow we have a lack of discipline.

The system may have broken down on occasion. The system may have had some irregularities. I do not believe there has been any evidence of a lack of discipline.

Let me ask one final question. I am sure the Senator from Wisconsin has the highest degree of belief in the integrity of the minority leader and the majority leader of this Senate.

Mr. PROXMIRE. Of course.

Mr. HATFIELD. All right.

The majority leader and minority leader have stated publicly and frequently that they are going to expedite the whole matter of handling these bills and get them acted upon with preference, with priority, and in an expeditious manner.

Does the Senator from Wisconsin have any reason to disbelieve that commitment?

Mr. PROXMIRE. May I point out that my leader, the distinguished Senator from West Virginia, is the author of the amendment, and I think that amendment speaks very clearly for his position, and I think it is the general position taken by our party when we had a caucus and discussed it.

Mr. HATFIELD. That is not the question.

Mr. PROXMIRE. Most Members of our body agree that we should support the amendment because we should act on this by December 18 and by making a continuing resolution expire at that time we will be in a much stronger position to persist and act on it. I think all of us need discipline.

Mr. HATFIELD. If I might just observe, it seems to me the Senator is arguing we have to have this resolution date in order to keep the leadership's feet to the fire. I do not accept that. I believe when the leadership publicly and frequently has stated that it is going to expedite the handling of these bills, then I feel that the leadership's integrity is not to be challenged, and I frankly do not believe we have to have this amendment in order to keep their feet to the fire.

Mr. PROXMIRE. May I say to my friend from Oregon I am not going to be put in a position of saying anything critical of my good friend from Tennessee. He is a wonderful gentleman, he is a brilliant Senator, he is a great majority leader, he is a Republican, but then no one is perfect.

So, Madam President, this is not a criticism of the leadership but the fact is that somehow, someway, we should have acted on all of our appropriations bills, had them enacted and down to the President for his signature by September 30.

This is November 18, and we still have not sent a single appropriations bill down. I do not think we can get up here and say we have discipline when we have not been. We are certainly going to kiss away what discipline we have if we put the continuing resolution date as September 30, 1982, almost a full year away and for the first time in the history of Congress lose the pressure that we should have to report these in an orderly way and as soon as we possibly can.

Mr. HATFIELD. Madam President, I have nothing further to add to the argument. I think that the question is fairly clearly stated. I think really that the leadership is remarkable leadership in the Senate. I have every bit of faith in their statements and commitments. I feel the leadership functions without the necessity of arm-twisting, of having feet put to the fire, of having some kind of an extraordinary amount of discipline imposed from this kind of an amendment that otherwise they might not exercise.

I think really that it is not necessary to move that date and at the same time I argue that the appropriations process will be made even more difficult if not impossible to handle all of those actions that we must handle within that time frame of a second concurrent resolution with the mandated figures that will be given to the Appropriations Committee at that time with moving on fiscal year 1983 and with the probability of having to go to a third continuing resolution at least to handle one or more of those appropriations measures that have not been either signed or wherever they may be in the process.

So, I just wish to avoid the third continuing resolution. I wish to avoid all these matters, and that is why with great reluctance I oppose the amendment proposed by the minority leader as I did oppose it for these reasons and certainly nothing in any way would imply anything personal or any other matter. I just have great respect for him, but I do believe that this does make it impossible to function in an orderly way.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on the perfecting amendment proposed by the Senator from West Virginia.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Chair.

Madam President, the Senate is indeed faced with an extraordinary situation. This has been emphasized by the able Senator from Oregon, the able Senator from Wisconsin, and the able Senator from Mississippi.

The overriding concern of the Senator from Virginia is which way or which time frame will bring about the smaller increase in Government spending.

I am not totally clear as to which would be the better course.

I wish at this point to address a question to the chairman of the Appropriations Committee, the Senator from Oregon (Mr. HATFIELD). May I ask the Senator from Oregon, the chairman of the Appropriations Committee: As I understand the thrust of his comments in regard to the pending amendment, he feels that by having the continuing resolution expire on September 30, 10 months from now, rather than 1 month from now, that in the appropriations process the amount of spending probably would not be as great as it might be if the continuing resolution lasted for only 30 days and then would undoubtedly need to be renewed bevond that point.

Mr. HATFIELD. I say to the Senator that the possibility is based upon our past experience of amendments offered

to add back or to add to, that every time we have a vehicle that broadens that possibility to include all 13 bills that likelihood is greater than when we let those bills drop out one at a time from under that continuing resolution once the Senate and the House of Representatives have worked their will and the President has signed it.

What I am saying is that we face the probability of a third continuing resolution, but that third continuing resolution does not restrict itself to just one or two of the unenacted-upon bills. It opens up all of the appropriations and there can be always reaching back into the action already completed with new requests or the economic conditions have worsened in certain areas and therefore we need to add back to certain programs that have already been determined at a previous date.

So from that standpoint I say the likelihood is there and the likelihood would be greater.

Mr. HARRY F. BYRD, JR. I am somewhat inclined to that view also, not permanently inclined, but somewhat inclined.

I remember in the spring of 1980 the atmosphere in the Senate was one of holding down spending. As we got into June, July, and August, as the months went by, the atmosphere was to increase spending.

Mr. HATFIELD. As we get closer to election—is that what the Senator is suggesting?

Mr. HARRY F. BYRD, JR. No, I was not equating it to the election because this is not an election year. I just am equating it to the passage of time. As time goes by, more and more reasons seem to develop as to why we need more spending.

That is why I am inclined to support the longer date, but I wanted to be sure that I understood the Senator from Oregon correctly in his analysis.

The proponents of the amendment of the Senator from West Virginia have cited certain dangers in having the continuing resolution run for the entire fiscal year, and they may have a point, but I think a mere 1-month extension is impractical. It would insure reopening all these issues and probably create more spending.

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) would also consider the fact that what we may be doing if we accept the longer date, we may be insuring lesser appropriations for defense. Mr. President, I am particularly concerned that the Senate not be denied an opportunity to debate and make decisions on our defense programs for fiscal year 1982. The bill appropriated for defense is the largest in the Nation's history, it incorporates funding for decisions which are of paramount importance, and which will be with us for the rest of this decade and beyond.

The Senate has a deep responsibility to thoroughly consider the import of these decisions. As the continuing resolution is now constructed, the defense funding level will be the lower of the House or Senate. This results in the Senate endorsing the lower House funding level, about $15 billion lower than the Senate bill.

It would be entirely appropriate to expect or at least realize the prospect that the Senate may never see a defense appropriation bill considered before the end of the session if we pass the continuing resolution with the September 30, 1982 expiration date.

There has been a rumor that a Senator will move to substitute not only the Senate appropriation bill level but also the text of that bill itself for the continuing resolution. Whether that rumor is well-founded I do not know, but certainly this can be done. It is an unusual procedure, but that is what we are seeing here, an unusual procedure.

It still does not guarantee that the Senate as a body will have the appropriate opportunity to debate this defense program in the responsible way and the full way that the Nation expects it to.

So the best way for the Senate to insure that a meaningful debate on the Nation's defense occurs is to vote for the amendment I have offered. By supporting that amendment Senators will guarantee they will fulfill their constitutional role. If Senators want the Senate-reported defense program, a program significantly stronger than the program recommended by the House of Representatives, they will vote for my amendment.

A vote against the amendment is a vote for a much weaker questionable program for defense spending, and for a program fashioned by the other Chamber. I do not think that most Senators will find that satisfactory.

One other thing, Mr. President. As the Senate knows, the Senate debated and made a decision at the time the Transportation appropriation bill was before the Senate in support of the retention of the Amtrak train, the Cardinal.

It is my understanding that the distinguished junior Senator from Oregon (Mr. PACKWOOD) plans to offer an amendment to this continuing resolution to knock out the Cardinal. The distinguished Senator from Oregon (Mr. PACKWOOD) offered such an amendment to the Transportation appropriation bill, as I have already indicated, the Senate debated that amendment and rejected it.

The distinguished Senator from Oregon has every right to offer such an amendment to the continuing resolution. But I am obligated to leave the Senate today at 5 o'clock, and I will ask unanimous consent now, in accordince with the rule, that I be excused from the Senate today after 5 p.m.

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

Mr. ROBERT C. BYRD. I hope that the distinguished Senator from Oregon will do me the courtesy of coming over and offering his amendment before I leave the Senate.

I called the distinguished Senator several minutes ago, perhaps 20 or 30 minutes ago, and requested that he come over and offer his amendment. He has every right to do that, and I respect him for that. But I hope that in view of the fact that I will have to be gone after 5 p.m. today that he will come over and offer the amendment while I am here to oppose the amendment.

The amendment, if adopted, would certainly affect my State and its citizens. I implore and beseech the distinguished Senator to come to the floor and call up his amendment so that we can debate it and the Senate can act on it before I am obliged to leave the Senate Chamber. I would do the same for him or any other Senator under those circumstances.

Now, Madam President, I yield the floor and I express the hope the Senate will adopt my amendment that is now pending.

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

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Washington (Mr. GORTON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Vermont (Mr. LEAHY) is absent because of illness.

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

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

The result was announced—yeas 46, nays 49, as follows:

[Rollcall Vote No. 394 Leg.]

YEAS—46

Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Biden	Hart	Nunn
Boren	Heflin	Pell
Bradley	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Humphrey	Randolph
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Chiles	Johnston	Sasser
Cranston	Kennedy	Stennis
DeConcini	Levin	Tsongas
Dixon	Long	Williams
Dodd	Matsunaga	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NAYS—49

Abdnor	Hatch	Percy
Andrews	Hatfield	Pressler
Baker	Hawkins	Quayle
Byrd, Harry F., Jr.	Hayakawa	Roth
	Heinz	Rudman
Chafee	Helms	Schmitt
Cochran	Jepsen	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Laxalt	Stevens
Denton	Lugar	Symms
Dole	Mathias	Thurmond
Domenici	Mattingly	Tower
Durenberger	McClure	Wallop
East	Murkowski	Warner
Garn	Nickles	Weicker
Grassley	Packwood	

NOT VOTING—5

Armstrong	Goldwater	Leahy
Boschwitz	Gorton	

So Mr. ROBERT C. BYRD's amendment (UP No. 652) was rejected.

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

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The minority leader is recognized.

UP AMENDMENT NO. 653

(Purpose: To change the date until which funds may be available to March 30, 1982)

Mr. ROBERT C. BYRD. Mr. President, I shall send to the desk an amendment which would change the September 30, 1982, date to March 30, 1982, which is the date, I am advised, that the President requested. The arguments have been made on the amendment as far as I am concerned. I know of no new argument to make on my amendment that I did not offer before, except to say again that it is my understanding that this is the date the President requested on the continuing resolution.

It seems to me, Mr. President, that this would allow the Senate to take up the other appropriations bills, debate them, and act upon them and send them to the President. It would allow the Senate, then, come March 30, 1982, to take a new look at any items that are covered by the continuing resolution which have not been superseded by action on appropriations bills prior to that.

Therefore, I send the amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 653:

In the matter proposed to be inserted, strike out "December 19, 1981" and insert "March 30, 1982."

Mr. HATFIELD. Mr. President, I shall yield to the Senator first if he wishes to make any remarks.

Mr. ROBERT C. BYRD. I have nothing more, Mr. President.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the committee amendments to House Joint Resolution 357, with the exception of the amendment on page 27, lines 9 through 22, be considered and agreed to en bloc and that the resolution as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as having been waived by reason thereof and that the excepted amendment may be set aside by agreement with the majority and minority floor managers.

This has been cleared with the minority ranking member, Mr. PROXMIRE.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I certainly want to cooperate in every way I can with the distinguished chairman because he has been exceedingly fair with me and with others on this side of the aisle, I reiterate that I hope that the distinguished Senator from Oregon (Mr. PACKWOOD) will offer his amendment with respect to the Cardinal before I have to leave town.

I therefore hope that the distinguished chairman would exclude from the amendments which he has asked to have agreed to en bloc the amendment on page 7, beginning with line 7 and going through page 14.

Mr. HATFIELD. Mr. President, I withdraw my unanimous-consent request at this time, because we would have to exclude a whole section of the bill in order to get to the point of the Senator, as I understand it.

Mr. President, I withhold my unanimous-consent request for a few moments. Meanwhile, I yield to the Senator from Wisconsin (Mr. KASTEN) to handle a technical amendment.

UP AMENDMENT NO. 654

(Purpose: To amend the Foreign Assistance and Related Programs Appropriations Provision to reflect Senate action November 17, 1981)

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I thank the chairman for yielding. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If the Senator will abstain for a moment, the Chair is advised by the Parliamentarian that there is a requirement——

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from West Virginia be temporarily laid aside to handle this technical amendment.

The PRESIDING OFFICER. Without objection, all pending amendments are set aside and the Senator from Wisconsin is now recognized.

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes an unprinted amendment numbered 654.

Mr. KASTEN. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 5, line 14, beginning with "(b)" strike out all through "1956." on page 5, line 23, and insert in lieu thereof:

"(b) Such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1982, at a rate for operations and to the extent and in the manner as provided for in such Act as passed the Senate on November 17, 1981, as if such Act had been enacted into law, notwithstanding section 10 of Public Law 91-672, and section 15(a) of the State Department Basic Authorities Act of 1956."

Mr. KASTEN. Mr. President, this amendment is of a technical nature, the provision in the continuing resolution that pertains to foreign assistance and related programs refers to S. 1802, the Senate originated bill, as it was reported to the Senate and as amended by the Senate as of November 20. 1981.

Mr. President, my amendment would change this language to reflect the action this body took yesterday. The new provision for foreign assistance and related programs would, if this amendment is agreed to, read "as passed the Senate on November 17, 1981."

My understanding is that Senator INOUYE, the ranking minority member of the Subcommittee on Foreign Operations, has reviewed and has no problem with this technical amendment.

I hope the chairman of the Committee on Appropriations and the ranking minority member will agree to it also.

Mr. HATFIELD. Mr. President, the amendment speaks for itself and I urge the adoption of the amendment because it puts the Senate foreign operations appropriations bill in a position to deal in the conference with the House. It gives us a reference of our own making.

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

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP 654) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

COMMITTEE AMENDMENTS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the committee amendments to House Joint Resolution 357, with the exception of the portion of the amendment on page 21, lines 9 through 22, section 112, be considered and agreed to en bloc; that the resolution as amended be considered as original text for the purpose of further amendment, with the understanding that no point of order be considered as having been raised by reason thereof; and that the excepted amendment may be set aside by agreement of the majority and minority floor leaders. This has been cleared with the minority side and the minority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 2, strike line 6, through and including line 12, and insert the following:

Department of Defense Appropriation Act, 1982;

Military Construction Appropriation Act, 1982;

On page 2, line 17, after "1982"; insert "and";

On page 2, strike lines 18 and 19;

On page 3, line 3, strike "October 1", and insert "November 20";

On page 3, line 6, strike "October 1", and insert "November 20";

On page 3, line 10, strike "October 1", and insert "November 20";

On page 3, line 19, strike "October 1", and insert "November 20";

On page 3, line 20, strike "*Provided*", through and including the end of line 25;

On page 4, line 7, after "1981", insert the following: "*; Provided further,* That for the purposes of this joint resolution, the Senate reported level of H.R. 4121, entitled 'the Treasury, Postal Service, and General Government Appropriations Act, 1982,' shall be the level reported by the Senate on September 22, 1981 (S. Rept. No. 97–192) as modified on November 17, 1981.".

On page 4, line 14, strike "October 1", and insert "November 20";

On page 5, strike line 4, through and including line 13, and insert the following:

(b) Such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1982 (S. 1802), at a rate for operations and to the extent and in the manner as provided for in such Act as reported to the Senate on November 3, 1981 (S. Rept. No. 97–266), and as amended by the Senate as of November 20, 1981, as if such Act had been enacted into law, notwithstanding section 10 of Public Law 91–672, and section 15(a) of the State Department Basic Authorities Act of 1956.

On page 5, strike line 24, through and including page 6, line 12, and insert the following:

(c) Such amounts as may be necessary for projects or activities for in the District of Columbia Appropriation Act, 1982, at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (H. Rept. No. 97–327) filed in the House of Representatives on November 12, 1981, as if such Act had been enacted into law.

On page 6, beginning on line 24, strike "House of Representatives on July 24, 1981", and insert "Senate on November 5, 1981";

On page 7, strike line 1, through and including line 6, and insert the following:

(e) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1982, at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (H. Rept. No. 97–331) filed in the House of Representatives on November 13, 1981, as if such Act had been enacted into law.

On page 7, line 23, strike "law.", and insert the following: "law, with the following new title:

TITLE V

SEC. 501. Notwithstanding any other provision of this Act—

(1) The amount of the increase in contract authority under the heading "HOUSING PROGRAMS, ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING", shall be $885,357,427, and the amount of the increase in budget authority under such heading shall be $17,373,528,040.

(2) The amount appropriated under the heading "HOUSING PROGRAMS, HOUSING COUNSELING ASSISTANCE", shall be $3,520,000.

(3) The amount appropriated under the heading "SOLAR ENERGY AND ENERGY CONSERVATION BANK, ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS", shall be $22,000,000.

(4) The amount appropriated under the heading "COMMUNITY PLANNING AND DEVELOPMENT, COMMUNITY DEVELOPMENT GRANTS", shall be $3,450,000,000.

(5) The amount appropriated under the heading "COMMUNITY PLANNING AND DEVELOPMENT, URBAN DEVELOPMENT ACTION GRANTS" shall be $440,000,000.

(6) The amount appropriated under the heading "POLICY DEVELOPMENT AND RESEARCH, RESEARCH AND TECHNOLOGY", shall be $20,000,000.

(7) The amount appropriated under the heading "FAIR HOUSING AND EQUAL OPPORTUNITY, FAIR HOUSING ASSISTANCE", shall be $5,016,000.

(8) The amount appropriated under the heading "MANAGEMENT AND ADMINISTRATION, WORKING CAPITAL FUND", shall be $528,000.

(9) The amount appropriated under the heading "DEPARTMENT OF DEFENSE—CIVIL, CEMETERIAL EXPENSES, ARMY, SALARIES AND EXPENSES", shall be $4,476,000.

(10) The amount appropriated under the heading "ENVIRONMENTAL PROTECTION AGENCY, SALARIES AND EXPENSES", shall be $512,837,000.

(11) The amount appropriated under the heading "ENVIRONMENTAL PROTECTION AGENCY, RESEARCH AND DEVELOPMENT", shall be $167,759,000.

(12) The amount appropriated under the heading "ENVIRONMENTAL PROTECTION AGENCY, ABATEMENT, CONTROL AND COMPLIANCE", shall be $377,194,200.

(13) The amount appropriated under the heading "ENVIRONMENTAL PROTECTION AGENCY, BUILDINGS AND FACILITIES", shall be $3,621,000.

(14) The amount appropriated under the heading "EXECUTIVE OFFICE OF THE PRESIDENT, COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY", shall be $919,000.

(15) The amount appropriated under the heading "EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF SCIENCE AND TECHNOLOGY POLICY", shall be $1,578,000.

(16) The amount appropriated under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY, FUNDS APPROPRIATED TO THE PRESIDENT, DISASTER RELIEF", shall be $324,720,000.

(17) The amount appropriated under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY, SALARIES AND EXPENSES", shall be $73,364,720.

(18) The amount appropriated under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY, STATE AND LOCAL ASSISTANCE", shall be $122,134,320.

(19) The amount appropriated under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY, EMERGENCY PLANNING AND ASSISTANCE", shall be $65,087,440.

(20) There are appropriated, out of any money in the Treasury not otherwise appropriated, for the repayment of notes dated April 17, 1979, and September 28, 1979, issued by the Director of the Federal Emergency Management Agency to the Secretary of the Treasury pursuant to section 15(e) of the Federal Flood Insurance Act of 1956 (24 U.S.C. 2414(e)), $328,240,000.

(21) The amount appropriated under the heading "DEPARTMENT OF HEALTH AND HUMAN SERVICES. OFFICE OF CONSUMER AFFAIRS", shall be $1,760,000.

(22) The amount appropriated under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, RESEARCH AND DEVELOPMENT", shall be $4,791,900,000, of which not to exceed $3,104,900,000 shall be available for the Space Shuttle including space flight operations: *Provided*, That the limitations subject to the approval of the Committees on Appropriations contained under this heading shall not be affected by this subsection.

(23) The amount appropriated under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, CONSTRUCTION OF FACILITIES", shall be $80,000,000.

(24) The amount appropriated under the heading "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, RESEARCH AND PROGRAM MANAGEMENT", shall be $1,099,300,000.

(25) The amount appropriated under the heading "NATIONAL SCIENCE FOUNDATION, RESEARCH AND RELATED ACTIVITIES", shall be $950,000,000.

(26) The amount appropriated under the heading "NATIONAL SCIENCE FOUNDATION, SCIENCE EDUCATION ACTIVITIES", shall be $20,000,000.

(27) The amount appropriated under the heading "NATIONAL SCIENCE FOUNDATION, SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)", shall be $3,080,000.

(28) The amount appropriated under the heading "SELECTIVE SERVICE SYSTEM, SALARIES AND EXPENSES", shall be $18,633,000.

(29) The amount appropriated under the heading "DEPARTMENT OF THE TREASURY, OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES", shall be $6,184,000.

(30) The amount appropriated under the heading "DEPARTMENT OF THE TREASURY, NEW YORK CITY LOAN GUARANTEE PROGRAM", shall be $822,000.

(31) The amount appropriated under the heading "VETERANS ADMINISTRATION, COMPENSATION AND PENSIONS", shall be $13,824,000,000.

(32) The amount appropriated under the heading "VETERANS ADMINISTRATION, READJUSTMENT BENEFITS", shall be $1,938,800,000.

(33) The amount appropriated under the heading "VETERANS ADMINISTRATION, MEDICAL AND PROSTHETIC RESEARCH", shall be $128,215,000.

(34) The amount appropriated under the heading "VETERANS ADMINISTRATION, MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES", shall be $51,392,000.

(35) The amount appropriated under the heading "VETERANS ADMINISTRATION, CONSTRUCTION, MAJOR PROJECTS", shall be $378,338,000.

(36) The amount appropriated under the heading "VETERANS ADMINISTRATION, CONSTRUCTION, MINOR PROJECTS", shall be $102,942,000, of which not to exceed $30,018,000 shall be available for the Office of Construction.

(37) The amount appropriated under the heading "VETERANS ADMINISTRATION, GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES", shall be $15,840, 000.

(38) The amount appropriated under the heading "DEPARTMENT OF THE TREASURY, INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK", shall be $41,360,000: *Provided*, That the final Government equity redemption date for the National Consumer Cooperative Bank shall occur on December 31, 1981, and the Secretary of the Treasury shall purchase all class A stock for which funds are hereby appropriated no later than ten days following enactment of this Resolution.

(39) The amount appropriated under the heading "MANAGEMENT AND ADMINISTRATION, SALARIES AND EXPENSES", including transfers from the various funds of the Federal Housing Administration, shall not exceed $564,776,000: *Provided*, That $15,640,000 shall be transferred and made available from the unearned fees and charges account for any necessary administrative and nonadministrative expenses under this head, which amount shall be in addition to (1) the amount otherwise appropriated and made available in accordance with this sentence; and (2) any other amount which would be available for operating expenses of the Department, pursuant to section 7(j) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(j)).

(40) During fiscal year 1982, gross obligations of not to exceed $75,960,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

(41) The amount appropriated under the

heading "HOUSING PROGRAMS, PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS—FISCAL YEAR 1981", shall remain available until September 30, 1982: *Provided*, That any part of the foregoing amount which has not been obligated before the forty-fifth calendar day following the enactment of this joint resolution, shall be deemed obligated notwithstanding the provisions of 31 U.S.C. 200(a).

(42) The amount appropriated under the heading "HOUSING PROGRAMS, PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS", shall be $1,060,048,000.

(43) The Congress also disapproves the deferral under the heading "VETERANS ADMINISTRATION, (DISAPPROVAL OF DEFERRAL)", of the Washington, D.C., and Long Beach, Calif., projects as contained in deferral notice D82–140.

(44) Notwithstanding any other provision of this Act, including any other provision of this title, any agency may, before December 31, 1981, transfer to salaries and expenses from other sources made available to it by this Act, such amounts as may be required if the aggregate amount available for salaries and expenses, after such transfer, does not exceed the amount contained for such purposes in this Act before the application of the changes contained in title V: Provided, That such transfers shall be subject to the approval of the Committees on Appropriations.

On page 16, line 22, strike "filed in", and insert "as approved by";

On page 16, line 23, strike "5", and insert "12";

On page 17, strike line 9, through and including line 17;

On page 17, line 18, strike "(j)", and insert "(i)";

On page 17, line 18, strike "excess", and insert "excess and under the conditions";

On page 17, line 23, strike "(k)", and insert "(j)";

On page 18, after line 2, insert the following:

(k) Such amounts as may be necessary for projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriation Act, 1982, shall be at the rate provided in H.R. 4169 as reported to the Senate on October 30, 1981, as amended by the Senate through November 16, 1981, and under the authority and conditions provided in the applicable appropriation Act for fiscal year 1981.

On page 19, after line 15, insert the following:

SEC. 107. Notwithstanding any other provisions of this joint resolution and the provisions of sections 720(b) and 722(a)(1) of the Public Health Service Act, $20,790,000 is appropriated and shall remain available until expended for a grant for the construction or expansion of a teaching facility under section 720(a)(1) of such Act.

SEC. 108. Notwithstanding any other provision of this joint resolution, $869,240,000 is appropriated under this joint resolution for payment to the Postal Service Fund, of which $230,000,000 shall be available for public service costs and $639,240,000 shall be available for revenue foregone on free and reduced rate mail, of which $20,000,000 shall be available for revenue foregone under section 3626 of title 39, United States Code, with respect to the rates of postage for any class of mail or kinds of mailer under former sections 4358, 4554(b), and 4554(c) of such title.

SEC. 109. No funds made available pursuant to this joint resolution may be used to accomplish or implement a proposed reorganization of the Bureau of Alcohol, Tobacco and Firearms before March 15, 1982. Such reorganization plan may be implemented after March 15, 1982, unless disapproved by the House and Senate Committees on Appropriations.

SEC. 110. Notwithstanding any other provision of this joint resolution, the Secretary of the Treasury is authorized to transfer up to 2 per centum from any appropriation account provided by this joint resolution for the Department of the Treasury otherwise appropriated in H.R. 4121, entitled the Treasury, Postal Service and General Government Appropriation Act, 1982, to any other such appropriation account: *Provided*, That the recipient appropriation account is not increased by more than 2 per centum of the amount provided by this joint resolution: *Provided further*, That approval for such transfers is obtained in advance from the House and Senate Committees on Appropriations.

SEC. 111. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, advance design, and repairs and alteration line-item projects and lease construction projects which are included in either H.R. 4121, as passed by the House, or in H.R. 4121, as reported by the Senate on September 22, 1981.

SEC. 113. It is the sense of the Senate that the President of the United States should not include in his recommendations for revenue enhancements any recommendations which would have the effect of reducing Federal tax incentives for energy conservation or the development of renewable energy sources.

SEC. 114. Notwithstanding any other provision of law, funds provided under this joint resolution for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) shall not be withheld from obligation during such time as any special message specifying a deferral or rescission of budget authority for such programs is pending before the Congress, to the extent that such withholding would reduce participation and benefit levels before those in effect as of September 1981: *Provided further*, That all funds appropriated for the first quarter of fiscal year 1982 for these programs shall be allocated to the States immediately upon enactment of this joint resolution.

SEC. 115. Notwithstanding any other provision of law or of this joint resolution, none of the funds provided in this or any other Act shall hereafter be used by the Interstate Commerce Commission to approve railroad branchline abandonments in the State of North Dakota by the entity generally known as the Burlington Northern Railroad, or its agents or assignees, in excess of a total of 350 miles: *Provided*, That this section shall be in lieu of section 311 (amendment numbered 93) as set forth in the conference report and the joint explanatory statement of the committee of conference on the Department of Transportation and Related Agencies Appropriations Act, 1982 (H.R. 4209), filed in the House of Representatives on November 13, 1981 (H. Rept. No. 97–331).

SEC. 116. Notwithstanding any other provision of law or of this joint resolution, the funds provided for section 18 nonurban formula grants and section 5 urban formula grants in this joint resolution shall be apportioned and allocated using data from the 1970 decennial census for one-half of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census: *Provided*, That this section shall be in lieu of amendments numbered 64 and 66 as set forth in the conference report and the joint explanatory statement of the committee of conference on the Department of Transportation and Related Agencies Appropriations Act, 1982 (H.R. 4209), filed in the House of Representatives on November 13, 1981 (H. Rept. No. 97–331).

SEC. 117. Notwithstanding any provision of this joint resolution, the funds made available by this joint resolution which would be available under H.R. 4560, entitled "Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982", for school assistance in federally affected areas under title III of such Act shall be available under the authority and conditions set forth in H.R. 4560 as reported to the Senate on November 9, 1981.

SEC. 118. Notwithstanding section 1903(a) of the Social Security Act, all medicaid payments to the States for Indian health service facilities as defined by section 1911 of the Social Security Act shall be paid entirely by Federal funds and notwithstanding section 1903(t) of the Social Security Act, all medicaid payments to the States for Indian health service facilities shall not be included in the computation of the target amount of Federal medicaid expenditures.

SEC. 119. Notwithstanding any other provision of this joint resolution, there are appropriated $1,000,000 to continue the operations of the Office of Adolescent Pregnancy Programs of the Department of Health and Human Services.

SEC. 120. Notwithstanding any provision of law, none of the funds appropriated for the Department of Labor, Mine Safety and Health Administration, shall be used to classify a mine in the potash industry as gassy based upon air samples containing concentrations of methane gas, unless such classification standard has been adopted through formal rulemaking on or before November 5, 1981.

SEC. 121. Notwithstanding any other provision of this joint resolution, (1) amounts at the level provided in H.R. 4560 as passed by the House are available for general departmental management, Department of Health and Human Services, and the program direction and support services activity, Assistant Secretary for Health. (2) For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and sections 1526 and 1533(d) of the Public Health Service Act, $80,035,000, together with not to exceed $892,309,000 to be transferred to this appropriation as authorized by section 201(g)(1) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided*, That none of these funds shall be used to pay the expenses of statewide professional standards review councils."

SEC. 122. Notwithstanding any other provision of this joint resolution, appropriations for salaries and expenses in this joint resolution for the Department of Health and Human Services are hereby reduced by $21,800,000."

SEC. 123. Notwithstanding any other provision of this joint resolution, funding for sections 501(a), (b), and (c) of the Refugee Education Assistance Act of 1980 shall be at the levels and under the terms and conditions of the Labor-Health and Human Services Education Act, 1982, as passed by the Senate.

Mr. HATFIELD. Mr. President, 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. JACKSON. 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. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

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

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

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside Senator ROBERT C. BYRD's amendment for consideration of some technical amendments of the committee.

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

UP AMENDMENT NO. 655

(Purpose: Technical amendments)

Mr. HATFIELD. Mr. President, I send to the desk a technical amendment and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 655.

Mr. HATFIELD. 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 6, line 24, strike out "such Act as passed the".

On page 6, line 25, before the word "Senate" insert "such Act as passed the".

On page 24, line 20, strike out the word "grassy" and insert in lieu thereof "gassy".

On page 18, line 10, before the period insert ", notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended".

Mr. HATFIELD. Mr. President, these are the line-by-line corrections. These are word corrections. These are purely typographical corrections. They have been cleared with the minority, I am told.

Mr. PROXMIRE. Mr. President, I have had an opportunity to see these amendments and they are technical and in order. I support them.

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

The amendment (UP No. 655) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

Mr. HATFIELD. Mr. President, I have been informed that the proponent of the amendment is ready to go to vote on this question and I am ready to go to a vote.

Mr. BUMPERS. Have the yeas and nays been requested, Mr. President?

The PRESIDING OFFICER. They have been ordered.

Mr. PROXMIRE. Is the amendment the amendment of the Senator from West Virginia?

Mr. HATFIELD. Yes.

UP AMENDMENT NO. 653

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

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

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

I further announce that if present and voting, the Senator from Connecticut (Mr. DODD) and the Senator from Vermont (Mr. LEAHY) would vote "yea."

The PRESIDING OFFICER (Mr. QUAYLE). Are there other Senators in the Chamber that desire to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 395 Leg.]

YEAS—46

Baucus	Exon	Metzenbaum
Bentsen	Ford	Mitchell
Biden	Glenn	Moynihan
Boren	Hart	Nunn
Bradley	Heflin	Pell
Bumpers	Hollings	Proxmire
Burdick	Huddleston	Pryor
Byrd, Harry F., Jr.	Humphrey	Randolph
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Chiles	Johnston	Sasser
Cranston	Kennedy	Stennis
DeConcini	Levin	Tsongas
Dixon	Long	Williams
Eagleton	Matsunaga	Zorinsky
	Melcher	

NAYS—51

Abdnor	Grassley	Packwood
Andrews	Hatch	Percy
Armstrong	Hatfield	Pressler
Baker	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Schmitt
Cohen	Jepsen	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stafford
Denton	Laxalt	Stevens
Dole	Lugar	Symms
Domenici	Mathias	Thurmond
Durenberger	Mattingly	Tower
East	McClure	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	Weicker

NOT VOTING—3

Dodd	Goldwater	Leahy

So Mr. ROBERT C. BYRD's amendment (UP No. 653) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the first degree amendment.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside so Mr. PACKWOOD may present an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT 656

The Senator from Oregon is recognized.

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 656:

On page 7, before the period at the end of line 14, insert the following: ", except that none of the funds made available by this joint resolution shall be used by the National Railroad Passenger Corporation for the operation of rail passenger service between Washington, D.C., and Chicago via Cincinnati."

Mr. PACKWOOD. Mr. President, this amendment is similar to a motion I made when we had the bill under consideration previously, to strike from the bill money for the train known as the Cardinal, which runs from Chicago to Washington through some States in between. Mr. President, I want to lay before the Senate a problem that is a procedural problem that is going to affect every committee, not just mine and the Commerce Committee—every single committee if they are faced with the possibility or the problem of the Appropriations Committee legislating on appropriations bills.

This is the situation that the Senate finds itself in. Under rule XVI, we are not allowed to legislation on appropriations bills. However, if the House of Representatives has legislated on an appropriation bill, if the issue of germaneness is raised as a defense before a ruling from the Chair on the point of order involving legislation on an appropriation bill, the defense of germaneness is considered first and if, indeed, the issue is determined by the Senate to be germane, then the point of order cannot be raised that you are legislating on an appropriation bill.

I emphasize very clearly, Mr. President, those are two different points: One, are you legislating on an appropriations bill; two, is it germane? Let us take this example.

In the appropriation bill is language which will keep the Cardinal going, this train between Chicago and Washington. In my mind, that is clearly legislating on an appropriation bill. I have checked with the Parliamentarian, I have checked with those who are parliamentary experts on the Republican side of

the aisle, and they agree that if that were the only issue raised—not germaneness, but legislating on an appropriation bill—then, indeed, it would be subject to a point of order. However, if, before the point of order is ruled on—and if the point of order were ruled on and ruled in my favor that this is legislative, it obviously takes it out of the bill. At that stage, there is no point in raising the question of germaneness because the issue is taken from the bill.

But if, before the Chair rules, the defense of germaneness is raised and the Chair submits the issue of germaneness to the Senate because there is something in the bill that comes from the House, then the point of order that you are legislating falls if the Senate agrees that the subject language is germane. If the issue of germaneness prevails and it is found to be germane, then there is no quarrel with legislating on an appropriation bill.

Mr. President, let me state what has happened and why it has happened. I am going to read to the Senate a letter that I have from the Parliamentarian, Robert Dove.

I am writing to you in an attempt to explain my interpretation of Rule XVI as it impacts on the right of Senators to have legislative language stricken from an Appropriations Bill on a point of order. Prior to November 9, 1979, this right was severely limited by the defense of germaneness, a question decided exclusively by the Senate itself, and based on the theory that if "the House of Representatives opens the door by incorporating legislation in a general appropriation bill, the Senate has an inherent right to amend . . . notwithstanding its rules." (Senate Procedure, p. 133)

On Nov. 9, 1979, during the consideration of an amendment offered by the Senator from Colorado, Mr. Armstrong, a point of order was made and sustained that where there was "no House language . . . to which the question of germaneness could be raised" the question of germaneness should not be submitted despite the wording of rule XVI to the contrary. (Senate Procedure, p. 130)

Mr. President, I want to emphasize what that ruling was: That where there was no House language to which the question of germaneness could be raised, then the question of germaneness should not be submitted.

This precedent was not used again until September 24, 1981, when, during the consideration of H.J. Res. 325, the Senator from Alaska, Mr. Stevens proposed an amendment to amend the Internal Revenue Code to allow Senators and Congressmen to deduct living expenses from their income for Internal Revenue purposes. When Senator Stevens raised the defense of germaneness to this amendment the Chair invoked the Armstrong Precedent and refused to submit the question. On the question of whether this was legislation on an appropriation bill the Senate overturned the Chair and the amendment was adopted.

As a result of the above mentioned occurrences I feel that if there is any House language to which an amendment could possibly be germane in any future appropriation bill, the Chair should submit the question in accordance with Rule XVI which states "all questions of relevancy . . . shall be submitted to the Senate."

Mr. President, here is the situation we find ourselves in. It is now going to be the ruling of the Parliamentarian that if there is anything in the House bill that in any way relates to legislating on an appropriation bill, then any kind of legislation offered by the Appropriations Committee here will be left to the Senate as to whether or not it is germane. It will no longer be stricken by the Chair on its own motion as being not germane.

There are 29 members of the Appropriations Committee. We all know the tendency, and we all do it, to stick with our committee. That means that any member of the Appropriations Committee that can get anything put in the bill that relates to legislating on something that relates to his district or his State, that is going to be found to be at least, at a minimum, subject to a vote in the Senate as to whether it is germane, whether or not we rationally might think it is germane. I do not need to tell you, Mr. President, the disproportionate influence that this gives to members of a committee that has 29 members on it who are inclined to band together, Republican and Democrat, and support their committee.

You will start out with 29 votes, and it does not matter that you are possibly invading the jurisdiction of the Commerce Committee or the Finance Committee or the Energy Committee or the Banking Committee or any other committee, because the issue is this: Is this germane? If the House has any shred of language in it—it does not even have to be related to the same subject—any shred of language in it involving legislative language, then it will be submitted to us; and the question will not really become "Is it or is it not germane?" It will be whatever we decide, on whatever vote will determine the outcome.

For those of us not on the Appropriations Committee, with the bulk of the Senate not on the Appropriations Committee, in most cases you will start out with 29 votes against you. I do not say that critically. There is simply a natural tendency for us to stick with our committees when it is in defense of something in a committee report or language in a committee bill.

Prior to submitting this amendment, which is strictly to say that no money shall be used for the Cardinal, I offered an amendment to the Senator from West Virginia (Mr. ROBERT C. BYRD), because he had indicated when we debated this earlier that he had been assured by Alan Boyd, the head of Amtrak, that no other train would be affected if the Cardinal were kept going.

So the additional language I was going to add was as follows:

If, due to the operation of such service—

The Cardinal—

the National Railroad Passenger Corporation—

Amtrak—

would be required to discontinue the operation of any train which is being operated on the date of enactment of this joint resolution, or would be required to modify or adjust the frequency or quality of service of any such train.

In short, I was willing to say, "Fine, go ahead and run the Cardinal, so long as the running of it does not impinge on any other train," which is the position the Senator from West Virginia held 2 weeks ago—it will not impinge on the running of any other train. I think it will. But I was willing to offer language, that I would not move to strike, despite the fact that I think the precedent, so far as it involves all other committees, is dangerous.

I offer this language. The Senator from West Virginia respectfully declined to accept it.

I have a letter dated November 18, 1981, from Alan Boyd. All Senators are aware that we will be voting later on moves to cut this bill by 2 percent or 5 percent. I have a letter from Alan Boyd indicating that if those cuts are made, four trains would have to be cut during the remaining 9 months of the fiscal year to obtain savings equivalent to a full year's savings of three trains. He also states:

In addition, Amtrak will be required to add service under the existing transportation appropriation bill between Chicago and Washington, notwithstanding any across-the-board reduction in the appropriation.

Let me make it clear that the Cardinal is not running now. It does not meet any statutory criteria that would allow it to run.

Several years ago, we ceased writing into the law, "Thou shalt keep my train running," by name or designation or route, and we set forth criteria the train had to meet. The Cardinal does not meet it and has not met it, and I do not think it is going to meet it.

We have not designated a single other train in this little bill, not one. If the Cardinal is not going to damage any other train and its service, then the language I offered should have been accepted.

Alan Boyd has made it clear that he is up against a very tight limit with the present appropriation for Amtrak next year in $75 million, and if we adopt a cut, other trains will go; but, mark my words, the Cardinal is going to be kept. This is not going to be kept in preference to two or three other trains. It it going to be kept in preference to every other train in this country, regardless of the merits, and it is going to be kept because we have put ourselves into a parliamentary situation in which the natural tendency of the Appropriations Committee, 29 strong, is to vote 29 "aye" for any provision in an appropriation bill.

Therefore, all you have to do is to appeal to your friends on a bipartisan basis, or on a geographic basis, or on a friendship basis, or on any other basis, to see if you can pick up the additional 22 votes you need, assuming that we have 100 votes here.

If that is the way the Senate wants to go, then, never again, under the rulings of the Parliamentarian, are you going to be able to challenge, under rule XVI, a provision that it is legislation on an appropriation bill. In every case, the issue of germaneness is going to be raised, and you will be starting out with 29 votes against you.

That is bad enough procedurally, from the standpoint of the functioning of the Senate; but if, in addition to that, the Senate is going to go on record to save

this train in preference to every other train in the Nation, when the president of Amtrak says that he can barely keep the train going now—and those of you who are going to vote for the 2 percent or 5 percent cut that is coming along should remember that if that cut comes, if three or four trains are cut out of this Nation and one of them is your train, while the Cardinal is kept, if you vote against me at this time on this motion, you will be doing damage to the procedures of the Senate, and you may be cutting out your own train which is not earmarked and specifically designated in this legislation. Even though it has more merit, you may be cutting out your own train, if my motion to delete this section fails.

Mr. ANDREWS. Mr. President, I oppose the amendment.

My colleague and good friend from Oregon has made some very important points on procedure in the Senate; and there is always a possible question, obviously, on the ruling of the Parliamentarian as to germaneness on issues of this type. But I point out to my good friend that the question on the point of germaneness was decided by a vote of 75 to 12, if I recall correctly.

Later, as the Senate invariably does, the Senate moved on to a separate vote on the merits of this particular issue; and on that recorded vote on the merits of retaining the Cardinal, the vote, as I recall, was 53 to 34.

There are some interesting precedents brought up. The principle, however, is, do the elective representatives of the people, those of us who are privileged to be Members of Congress, reserve the right, indeed the duty, to overrule occasionally the Alan Boyds and the other bureaucrats who make decisions from their nonelected positions?

That, actually, is the tradition under which this decision was made 2 weeks ago; and many Senators on both sides of the aisle voted. The decision was made by a recorded vote to retain the Cardinal, based on the merits of the case.

As to the charge that, somehow or other, the Appropriations Committee is banding together to "do in" the other committees or to "do in" the other Members of the Senate, I happened to leaf through the Committee of Conference Report on another matter that involved earmarking funds, specifically pointing out how these funds should be spent. Let me read from page 29 of the conference report. It says:

Sec. 325. Notwithstanding any other provision of law, the Secretary shall, with regard to the Urban Discretionary Grant Program of the Urban Mass Transportation Administration, promptly issue a letter of intent for the Dade County, Florida, Circulator System for $63,642,666, and, in addition, shall promptly issue a letter of intent for nonrail projects in the Portland, Oregon, Metropolitan region for $76,800,000 and also issue a letter of intent for the Southeast Michigan Central Automated Transit System for 110 million 1981 dollars.

Now, where should they issue letters of intent? The Senate directed that one was for $110,000,000 to southeast Michigan. Neither of Michigan's Senators is on the Appropriations Committee.

I point out to the Senate that the reason for this type of earmarking is undoubtedly that Appropriations Committee bills come up more often in the cycle of handling legislation than the legislative bills; and when the Senate, in its wisdom, perceives that an add-on shall be made or a deletion shall be made, an appropriations bill is the vehicle for that change.

I also point out that, in the same paragraph, we did in fact earmark and direct $76,800,000 to Portland, Oreg.

And we also in that same paragraph directed the issuance of a letter of intent for the Dade County, Fla., circulator system.

The Senate did direct. The Senate did, on an appropriations bill, overrule, in effect, the actions of various appointed officials because the Senate as a representative of the people—and the House of Representatives as a representative of the people, because I am referring to a conference report—felt that it was in the best interest of the Nation that these funds be earmarked and these projects or that train move forward.

It has been done that way not because the Appropriations Committee wants to enjoy some special privilege or special benefit, but because of the Members of the Senate coming to the appropriate subcommittees of the Appropriations Committee pointing out specific needs that can be recommended by being included in the appropriations bills as they move forward. Whether they are members of the committee or not, if their cases have merit, and if by a bipartisan vote of the majority of the members of the subcommittee and later sustained on the floor of the Senate or the House of Representatives, then those specific earmarkings do in fact move ahead.

Mr. President, I hope that the vote of 53 to 34 that decided this issue 2 weeks ago when we debated the bill will be upheld today.

I yield to my colleague from West Virginia, the senior Senator.

Mr. ROBERT C. BYRD. Mr. President, I thank my distinguished friend, the chairman of the Transportation Appropriations Subcommittee.

May I inquire of the distinguished Senator from Oregon what he proposes to do? Does he propose to strike the language in the continuing resolution or does he propose to offer a substitute? What are we facing here?

Mr. PACKWOOD. Mr. President, ask the question again. The only copy I have is at the desk. Ask it again and I will go up and take a look at it.

Mr. ROBERT C. BYRD. I merely want to know what I am up against. Is the Senator going to offer the amendment; is he moving to strike the language in the pending resolution. What does he propose to do?

Mr. PACKWOOD. I will read it to the Senator specifically.

On page 7, before the period at the end of line 14, insert the following: ", except that none of the funds made available by this joint resolution shall be used by the National Railroad Passenger Corporation for the operation of rail passenger service between Washington, D.C., and Chicago via Cincinnati."

Mr. ROBERT C. BYRD. Will the Senator read the language again?

Mr. PACKWOOD. Yes.

On page 7, before the period at the end of line 14, insert the following: ", except that none of the funds made available by this joint resolution shall be used by the National Railroad Passenger Corporation for the operation of rail passenger service between Washington, D.C., and Chicago via Cincinnati."

Mr. ROBERT C. BYRD. So the Senator proposes to prevent any funds from being utilized for the operation of the Cardinal?

Mr. PACKWOOD. That is correct.

Mr. ROBERT C. BYRD. Mr. President, in the first place the Senator assumes a reduction in the overall amount of $735 million. We discussed this at some length during the consideration of the transportation appropriation agencies bill at which time I indicated that Mr. Boyd, the president of Amtrak, had stated to me in my office that if the $735 million were appropriated, if State and local taxes were waived, the operation of the Cardinal would not impinge upon the operation of any other train.

Mr. President, this matter has been argued and decided upon on a number of occasions—in the Senate Appropriations Subcommittee on Transportation, in the full Senate Appropriations Committee, here on the Senate floor, and in conference with the House of Representatives.

The statement of the managers on the 1982 Department of Transportation and related agencies appropriations bill reads as follows:

The managers are encouraged by the improved ridership on this train in the past year and believe that further improvement is clearly possible. Amtrak is directed to improve local advertising and reservations service, along with the route of the Cardinal. Also the managers expect Amtrak to report before April 1, 1982 to the House and Senate Appropriations Committees on the feasibility of increasing ridership on the Cardinal through route changes, fare restructuring, and service improvements. In particular, this report should comment on the practicality of routing the Cardinal through Indianapolis, Indiana.

So the conferees in both houses have given careful study to this matter and they have directed Amtrak to take actions to increase the ridership on the Cardinal through various and sundry means.

And I will repeat what I said during the debate on the transportation appropriations bill.

The Cardinal has met the criteria as far as passenger miles per train mile in the month of June and in the month of July. It exceeded that figure during both months, the figure being 150 PMPT. In June the figure was 150.7, and in July the figure was 164.7.

The other performance criterion for long distance trains is a 10.1 cents avoidable loss per passenger mile. The Cardinal has an avoidable loss per passenger mile of 9.1 cents.

Mr. President, the language in the Transportation appropriations bill reads as follows:

Provided further, that notwithstanding any other provisions of law, the Corporation shall provide through rail passenger serv-

ice between Washington, D.C. and Chicago via Cincinnati.

That does not require that the Cardinal run 7 days a week. It does not require that the Cardinal run 6 days a week. It does not require that the Cardinal run 5 days a week. It just requires that the Corporation shall provide through rail passenger service between Washington, D.C., and Chicago via Cincinnati.

So this gives the Corporation the flexibility that is needed to increase the ridership and to make whatever adjustments are necessary in the operation of the Cardinal, whether it be 3 days a week, 5 days a week, or daily, whichever may appear to be most feasible and appropriate in the light of the circumstances.

So I hope that the Senate will vote down the amendment. The Senate has spoken on this previously.

In closing, I want to thank Mr. PACKWOOD for offering the amendment today so that the Senate may have an opportunity to debate the matter while I am present.

I close by thanking the distinguished chairman of the Appropriations Subcommittee, Mr. ANDREWS, and by urging all Senators to vote down the amendment.

Mr. PACKWOOD. Mr. President, let me thank the distinguished Senator from West Virginia, who has been very courteous on this matter, and I will wrap up in 5 minutes, and we will be able to finish within the time limit we have.

First, let me respond to the Senator from North Dakota when he talked about earmarking funds for Portland, Oreg. He is perfectly correct. But that is earmarking funds that have been authorized, and we all know we do not get everything in an appropriation bill we would like to get, and many more things are authorized than we find money for. It is a normal practice around here. We all go to the Appropriations Committee, and we have 10 projects in Oregon, and we ask "Can you fund them?" And they fund maybe four of them. But they are all authorized and go through this body, and we said that all of them are justifiable if you can get money from the Appropriations Committee.

That is not the situation involved here. We have said, if you want to call the standard we have set down for Amtrak authorization, if trains do not get 150 passengers per train mile, Amtrak shall not run them. So we are not saving we are going to interfere willy-nilly with the arbitrary discretion of Alan Boyd, president of Amtrak. This is not overruling some arbitrary decision of the bureaucrat. The bureaucrat is doing what we told him. We told him that if the trains do not meet the 150 passengers per train mile they are not to run.

The Cardinal in 1980 averaged 87 passengers per train mile during June and July. They averaged, the Senator from West Virginia said that was the best passengers per train mile in the country—Amtrak's projection for the Cardinal if it runs, if it runs daily, it will get 122 passengers, if they are lucky under the most optimistic projections; if they run three times a week it will be 128.

I will conclude by reading from one letter. The letter is not here, but it is from Tim Gillespie. The rest of the letter relates to other things, and Alan Boyd has not seen the letter and they cannot sign off on it, but they will sign off, and this is what this one paragraph says:

In the event that Amtrak experiences significant revenue reductions or significant cost increases or both during fiscal year 1982, it is possible that the operation of the Cardinal would have an impact on other services. As you know, Section 1183 of the Omnibus Budget Reconciliation Action of 1981 requires Amtrak to operate within available resources. If Amtrak were required to reduce services in order to meet that mandate, we may well be faced with the anomaly of reducing service along routes whose performance is better than the Cardinal.

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

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

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

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER) would vote "nay."

The PRESIDING OFFICER (Mr. JEPSEN). Are there any other Senators wishing to vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 396 Leg.]

YEAS—47

Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Boschwitz	Hawkins	Proxmire
Cannon	Hayakawa	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jepsen	Specter
Danforth	Kassebaum	Stafford
Denton	Kasten	Stevens
Dole	Lugar	Symms
Domenici	Mattingly	Thurmond
Durenberger	McClure	Tower
East	Murkowski	Wallop
Garn	Nickles	Weicker
Gorton	Packwood	

NAYS—49

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Baucus	Glenn	Moynihan
Bentsen	Hart	Nunn
Biden	Hatfield	Pell
Boren	Heflin	Pryor
Bradley	Hollings	Quayle
Bumpers	Huddleston	Randolph
Burdick	Inouye	Riegle
Byrd, Harry F., Jr.	Jackson	Sarbanes
	Johnston	Sasser
Byrd, Robert C.	Kennedy	Stennis
Chiles	Levin	Tsongas
Cranston	Long	Warner
DeConcini	Lugar	Williams
Dixon	Mathias	Zorinsky
Eagleton	Matsunaga	

NOT VOTING—4

Dodd	Leahy	Melcher
Goldwater		

So Mr. PACKWOOD's amendment (UP No. 656) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected, and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I would like to state at this time that as far as the immediate issues that we will take up next, there are two colloquies which are pending, and then we will move to set aside the present bill temporarily and take up the D.C. appropriations bill and act on it.

I am informed by the leadership that there is a target of 6:30 p.m. for recess. I thought Members would like to know that at this time we know of no rollcall vote that will be asked for on the D.C. appropriations bill. There is always that possibility of someone asking for one, though I am not aware of such a request to be made at this time.

At this time, Mr. President, I yield to the chairman of the Senate Environment and Public Works Committee, Senator STAFFORD, for a colloquy with Senator SCHMITT, chairman of the Subcommittee on Labor, HHS, Education and Related Agencies.

Mr. STENNIS. Mr. President, may we have order? Would the Senator use his microphone?

Mr. HATFIELD. I am using the microphone.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, I yield to Senator STAFFORD.

UP AMENDMENT NO. 657

(Purpose: To provide additional conditions for Pell Grants)

Mr. STAFFORD. Mr. President, I have an unprinted amendment at the desk which I call up and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will advise that it will take unanimous consent to temporarily lay aside the pending committee amendment.

Is there objection?

Mr. ROBERT C. BYRD. Mr. President reserving the right to object.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the time agreement on this colloquy be 5 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I would have no objection under those conditions.

The PRESIDING OFFICER. Hearing none, it is so ordered.

Mr. HATFIELD. Mr. President, I now ask unanimous consent to lay aside temporarily the pending amendment in order that the amendment on which there is a time agreement can be taken up.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 657.

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

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

The amendment is as follows:

At the end of the resolution, add the following new section:

SEC. . Notwithstanding any other provision of the joint resolution, the funds made available by this joint resolution which would be available under H.R. 4560, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982, as reported to the Senate on November 9, 1981, for Student Financial Assistance shall be subject to the following additional conditions:

(1) The maximum Pell Grant a student may receive in 1982–1983 academic year is $1,800, notwithstanding section 411(a)(2)(A)(i)(II) of the Higher Education Act of 1965.

(2) The cost of attendance used for calculating eligibility for and amount of Pell Grants shall be established by the Secretary of Education.

(3) The Secretary of Education may establish or approve separate systems of need analysis for academic year 1982–1983, without regard to the provisions of subsections (a), (b), and (c) of section 482 of the Higher Education Act of 1965, for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.

(4) The family contribution schedule for the 1981–1982 academic year shall be the family contribution schedule for the 1982–1983 academic year, modified by the Secretary of Education to exclude payments under the Social Security Act and title 38, United States Code, described in paragraph (5) and to reflect the most recent and relevant data, except that the Secretary of Education shall establish a series of assessment rates applicable to discretionary income in accordance with section 482(b)(4) of the Higher Education Act of 1965. The modified family contribution schedule under this paragraph shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of enactment of this resolution and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

(5) Notwithstanding the provisions of section 482(b)(3) and the provisions of section 411(a)(2)(B)(ii), no Pell Grant shall exceed the difference between the cost of attendance at the institution at which the student is in attendance, and the sum of the expected family contribution and any amount paid to, or on account of, the student under the Social Security Act and any amount paid the student under chapters 34 and 35 of title 38, United States Code, and if with respect to any student, it is determined that the amount of a Pell Grant plus the amount of the expected family contribution, the amount paid to, or on account of, the student under the Social Security Act, and the amount paid the student under chapters 34 and 35 of title 38, United States Code, exceeds the cost of attendance for that year, the amount of the Pell Grant shall be reduced until the combination of expected family contribution, the amount of the Pell Grant, and the amount paid under the Social Security Act, and chapters 34 and 35 of title 38 of the United States Code does not exceed the cost of attendance at such institution.

Mr. STAFFORD. Mr. President, to be very brief, this amendment corrects some serious inequities in the Pell grant program under present law which will occur because of diminished funding, unless this amendment is adopted. Without the changes which this amendment makes, some 900,000 needy students proposing to go to college will not be able to receive Pell grants.

I am pleased that the committee, during its consideration of the appropriations bill for Labor, HHS, and Education, took the first step in this process—by allowing the historically separate methods of calculating awards for Pell grants and the campus-based student assistance programs to continue, by allowing the Secretary of Education to set an appropriated cost-of-attendance allowance, and by providing for an $1,800 maximum Pell grant.

This amendment, Mr. President, would have the effect of precluding in part the implementation of the admittedly unreasonable family contribution schedule sent to Congress by the administration on October 13, after a delay of more than 6 weeks. This delay has prevented the timely finalization of a schedule for distributing Pell grants at the time when millions of prospective and current students are in the process of determining their plans for the next academic year. Students and their institutions have experienced severe dislocation during the past 2 years due to unreasonable delays in receiving notification of their Pell grant awards from the Department of Education. This should not be allowed to continue.

If this or a comparable amendment is not adopted, the maximum Pell grant will be $2,100, at 60 percent of the cost of attendance, which would drive the cost of this program to an astronomical level—certainly above $3 billion. Using the schedule in law to reduce awards at less than the full funding level, drastic reductions in awards would result, dropping hundreds of thousands of students from the program.

On October 29, the Subcommittee on Education, Arts and Humanities, of which I am the chairman and of which Senator PELL is the ranking minority member, held a hearing to consider the family contribution schedule submitted by the administration for Pell grant awards for the 1982–83 academic year. That schedule, unless disapproved by Congress, will go into effect at the beginning of December. The administration witness at the subcommittee hearing characterized its own schedule as "relatively harsh." I would characterize it as "regressive," as it imposes, at the minimum, a 40-percent assessment, or tax rate, on family discretionary income, virtually four times that imposed in the last schedule submitted.

This assessment is so high as to eliminate students with adjusted gross family incomes above $15,000 from the program—effectively repealing the Middle Income Student Assistance Act of 1978. We will, later this week, be introducing a resolution of disapproval which will complement this amendment, but such a resolution cannot have the force of law to make the changes required.

Basically, Mr. President, the administration has informed us that it does not in fact want the schedule it has proposed to be implemented, but rather would like to see changes which would meet its proposed appropriations level for the Pell grant program, a level which both the Appropriations Committee and the House have rejected. While certain of these changes might be acceptable—such as the series of graduated assessment rates and the counting of part of a family's equity in a home in assessing student need for Pell grants—other changes are less acceptable.

For example, the administration would impose a dollar-for-dollar reduction in Pell grant benefits for every dollar received in social security assistance. As these benefits tend to go to the neediest students, such a proposal would have a "double-whammy" effect.

We had hoped, Mr. President, that the Secretary of Education would have exercised his authority to waive the provisions of the Pell grant program, subject to congressional review and approval, in order to prevent this continued impasse. As one of the authors of this provision, Section 516(d)(1)(B) Reconciliation Act, it was our intent, due to the essential interrelationship between the Pell grant program and the methods of needs analysis embodied in section 482 of the Higher Education Act, that the Secretary be able to recommend to Congress a waiver of provisions either in the Pell grant authorization—title IV, part A, subpart 1—or in section 482.

Specifically, Mr. President, our amendment, in conjunction with the committee amendment on House Joint Resolution 357, would put in place the same schedule as last year, adjusted for inflation and other updated changes. These adjustments should include income in 1981 as the base year for establishing Pell grant eligibility; should include calendar year 1981 and 1982 as the year to establish independent student status; and should establish calendar year 1982 as the appropriate year to calculate the independent student status of a married student.

This amendment would allow the Secretary of Education to establish a series of assessment rates on discretionary income, consistent with changes adopted in the Reconciliation Act earlier this year.

With respect to the Secretary's determination of cost-of-attendance allowances, we intend that the Secretary will follow the allowances designated for the 1981–82 academic year. We further expect that the Secretary would exercise his authority to increase asset exclusions for home, farm and business equity. Under our amendment, social security student assistance or VA student benefits would be considered as student aid rather than as family income for the purpose of Pell grant calculations.

Mr. President, it is imperative that these modifications be made in order to implement an equitable and fair distribution of Pell grants in the most timely

manner, so that students can make informed choices as to the financing of their education. I urge the Senate's adoption of this amendment.

Mr. President, I have discussed this amendment with the chairman of the Committee on Appropriations and with the distinguished chairman of the Subcommittee on Appropriations on educational matters Mr. SCHMITT. I believe that Senator SCHMITT, following our discussion, may be in a position to accept the amendment. I yield to the Senator.

Mr. SCHMITT. Mr. President, I am prepared to accept this language relating to Pell grants, although, as we all should be, I am somewhat reluctant to do so because it is legislation. However, I want to make it very clear that this amendment and these provisions are necessary at this time, urgently necessary, to allow the administrators of this program to begin processing applications for the next school year. I also realize that these provisions help constrain the costs of the Pell grant program.

My reluctance to accept this amendment stems from the fact that this is clearly legislation and really should not be offered as part of an appropriations bill.

I compliment the very able chairman of the Education Subcommittee for his achievements this year on the reconciliation bill, but I hope that in the coming year he will take a further look at the Federal role in student assistance. I particularly hope that he will continue to look further at ways to reduce the soaring costs of the guaranteed student loan program, the only entitlement in the Department of Education, which now takes up 19 percent of the education budget.

Three of the provisions in the Senator's amendment are already included in the Senate-reported Labor-HHS-Education bill: the $1,800 maximum grant, deferring the liberalized cost-of-attendance regulations enacted in 1980, and decoupling the needs analysis system for Pell grants from that used for the other campus-based student aid programs.

There are two additional provisions: One sets in place last year's family contribution schedule with a few minor modifications, and the other defines treatment of social security and VA student benefits under the Pell grant program.

Therefore, Mr. President, because of the urgent need for this, I recommend to the chairman and to our colleagues that we accept this amendment. Again, I compliment the chairman of the Education Subcommittee for his capable leadership of that very important subcommittee.

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

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

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. STAFFORD. Mr. President, let me first thank the Senator from New Mexico for his remarks, and for his cooperation in accepting this amendment. The staff of the Senator from New Mexico has been particularly helpful on this very complex issue.

Mr. PROXMIRE. On behalf of the minority, Mr. President, let me say that I am happy to support the amendment. As I understand it, this would not add any money to the bill, it simply would change the manner in which the funds are distributed to some extent to help needier students.

Mr. STAFFORD. The Senator is correct.

Mr. PROXMIRE. That is an excellent purpose.

Mr. STAFFORD. Compared to present law, it saves some costs.

Mr. SCHMITT. Mr. President, I think that is an excellent point, that compared to the present law, this amendment not only helps needier students, but it helps reduce costs.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. STAFFORD. I am glad to yield to the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, it is not only a privilege for me but it is a pleasant assignment for me to serve on the subcommittee chaired by the able Senator from Vermont and to support this amendment which, happily, is agreed to by the managers of the pending legislation.

I do feel, without going into detail, that we need, as the Senate, to realize that student assistance programs, within reason, must be kept at funding levels whereby we will not endanger the higher education programs of the United States in literally hundreds and hundreds of independent and private colleges across America.

I am very grateful, as I think all of us are, regardless of the party to which we hold allegiance, that we understand, and I think we do understand, that these assistance programs are of particular importance to students in private and independent colleges of America who must be given the freedom of choice which they often do not have when stacked against the lower cost public institutions, which receive State appropriated aid, or those colleges that have strong church constituencies behind them. The Stafford amendment, assures that the Pell grant family contribution schedule treats all students in an equitable manner and assures access for more needy students at colleges throughout America.

I am graduated from a small college in West Virginia that is independent, that is private. It has no church background from the standpoint of money that can come in from a strong constituency, be it Methodist or Baptist or Presbyterian. We do not have that. So these programs, I must say to the Senator, are vital to the continuation of the financial stability of the institution which has meant so much to me as a graduate and, through the years, I know has accomplished much in the way of education. I am confident that more than half of the Members of the Senate, who are also graduates of private, independent, church-related colleges, will agree with my feelings, and would share my concern for these institutions and the students they serve.

I am very happy that, on the Subcommittee on Education, with the capable leadership of the Senator from Vermont, we are not thinking in terms of crossing or recrossing party lines. If we are to strengthen and continue the programs of education in institutions of this country such as Salem College, that I have spoken of as my alma mater, in face of the reductions which we know will take place in the operation of our Government under this continuing resolution requires a clarification of the family contribution schedule, such as the Senator from Vermont is proposing today in the presentation of this amendment.

Mr. STAFFORD. I thank the Senator for his comments, and for our collaborative efforts on this and other important matters in the Education, Arts, and Humanities Committee and the Committee on Environment and Public Works. Senator RANDOLPH's advocacy for our student assistance programs is well known, and I appreciate his continual support for all education programs.

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. SCHMITT. I move the adoption of the amendment.

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

The amendment (UP 657) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 658

(Purpose: To express the sense of the Senate with respect to information transmitted by the President relating to reductions in budget authority and outlays and increases in revenues)

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

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for himself and Mr. LEAHY proposes an unprinted amendment numbered 658 to his amendment numbered 651:

At the end of the amendment of Mr. ROBERT C. BYRD, add the following:

SEC. . It is the sense of the Senate that the President should include with the Budget submitted for fiscal year 1983 pursuant to section 201 of the Budget and Accounting Act, 1921, a full and complete list of all reductions in budget authority and outlays and increases in revenues for fiscal years 1982, 1983, and 1984, which he determines and certifies are necessary to insure that outlays do not exceed revenues by fiscal year 1984. It is further the sense of the Senate that such list—

(1) should only include categories of reductions in budget authority and outlays which explicitly specify the programs and appropriation accounts in which such reductions are to be made, the exact amount of such reductions, the provisions of law with respect to entitlement programs which must be changed in order to carry out such reductions, and the provisions of law with respect to increases in revenues which must be changed in order to achieve such increases; and

(2) should not include categories of reductions in budget authority and outlays such as "unidentified cuts", "future savings", "reductions to be proposed at a later date", or other categories imprecisely describing reductions in budget authority and outlays which are similar to the categories

included in the budget (including amendments and revisions thereto) submitted by the President for fiscal year 1982.

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from Kentucky (Mr. FORD) wishes to engage in a colloquy at this time. I yield the floor.

Mr. FORD. I thank the distinguished minority leader.

Mr. President, on behalf of Senator HUDDLESTON and myself, I should like to pose a question to the distinguished Senator from Idaho, the chairman of the Energy and Natural Resources Committee, if I may.

It is our understanding that the effect of section 101(g) is to incorporate by reference into this act the entire bill language of the Department of Interior and Related Agencies Appropriation Act, 1982 conference report, as passed by the House. Is it correct to assume that the amendments, reported in disagreement by the conferees but passed last Thursday by this body, are incorporated in this act by this section?

Mr. McCLURE. Mr. President, in response to the question of the Senator from Kentucky, let me say he is correct. For instance, amendment No. 97 to the Interior appropriations bill was reported in technical disagreement and approved by the House. Section 101(g), if signed into law, would therefore appropriate the new funding contained in amendment No. 97, disapprove deferral D82–9, and permit expenditure of these funds in the manner described in the statement of managers of the Interior appropriations conference report.

Mr. FORD. Mr. President, I thank the distinguished Senator from Idaho for his response. I thank the distinguished minority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD) for allowing us to have this colloquy.

Mr. McCLURE. Mr. President, may I ask the distinguished Senator from Oregon (Mr. HATFIELD), the manager of the pending legislation, if the answer of the Senator from Idaho in response to the question of the Senator from Kentucky is correct?

Mr. HATFIELD. The Senator is correct.

Mr. McCLURE. I thank the Senator from Oregon.

UP AMENDMENT NO. 658

Mr. ROBERT C. BYRD. Mr. President, this amendment expresses the sense of the Senate that the administration provide a detailed list of budget cuts and tax increases necessary to achieve a balanced budget in fiscal year 1984.

Only 2 months ago, on September 21, President Reagan reaffirmed his belief in a balanced budget, saying:

> This administration is committed to a balanced budget, and we will fight to the last vote to achieve it in 1984.

Two weeks ago, however, the administration abandoned that goal. Speaking then about a balanced budget, Mr. Reagan said:

> If we can't do it in 1984, we'll have to do it later.

Mr. President, in short, this amendment expresses the sense of the Senate that the President, in developing his budget for presentation in January 1983, provide for a balanced budget in fiscal year 1984 and that he at the same time identify the plan by which that balanced budget in fiscal year 1984 will be reached.

In other words, there would be no so-called unidentified cuts. There would be no vague language that would leave Congress in doubt or the American people in doubt as to what cuts would be necessary or what tax increases would be required in order to achieve a balanced budget in fiscal year 1984. It would all be out on the table, for everyone to see and understand, for the Congress and the American people, so that they could clearly appreciate what cuts would be included and what tax increases would be required.

The amendment, I think, is a reasonable one. I believe it is reasonable to ask the administration to spell out in detail the necessary tax cuts, the necessary budget cuts, and the necessary tax increases to balance the budget by 1984.

I hope that the Senate will adopt the amendment.

I believe the goal of balancing the budget by 1984 is to important to relinquish, and I will continue the fight I began earlier this year to encourage this necessary fiscal prudence. This amendment is an important step in that direction.

On October 15, I submitted an amendment instructing OMB Director Stockman to reveal which budget cuts, and which tax increases, would be necessary to reach the administration's deficits targets of $43.1 billion in fiscal year 1982, $22.9 billion in fiscal year 1983, and a balanced budget in fiscal year 1984. This amendment, which asked nothing more than that the full picture be painted for the Congress and the American people, was made into a partisan matter and voted down on a straight party line vote.

On October 28, I introduced a bill which again directed the Office of Management and Budget to spell out the unidentified budget cuts and tax increases necessary to reach the administration's deficit targets. There has been no action on that bill.

My concern about the blue smoke and mirrors, which gave an aura of reality to this administration's budget projections, began on March 10th, when the President transmitted his budget to Congress. Even at that time, there were disturbing signs. Most disturbing were the $74 billion in "unidentified" cuts for fiscal years 1983 and 1984, which were necessary to balance the budget by 1984.

As the administration's budget and tax bills marched successfully through Congress, new obstacles cropped up in the path to a balanced budget, and three Republican Senators joined Senate Budget Committee Democrats in opposing the fiscal year 1982 first budget resolution because it did not provide for a balanced budget in fiscal year 1984.

To answer that, over the Easter recess, the administration developed a new master budget plan which reduced fiscal year 1984 spending by $44.8 billion, exactly the amount necessary to balance the budget in that year. Of this $45 billion reduction, $28 billion came from "unidentified cuts."

Although these unidentified cuts troubled me, and my fellow Democrats, the worst was yet to come, because the administration's July tax cut bill, which slashed $280 billion in revenues between 1982 and 1984, has proved to be a disaster.

Not only is this tax cut an unfair transfer of wealth from the middle to upper-income citizens, but it put a balanced budget out of reach by 1984. President Reagan said the Kemp/Roth tax bill ". . . includes just about everything to help the economy. . . ." But we now find out from Mr. Stockman that it was nothing more than a trickle down wolf in the sheep's clothing of supply side economics.

In September, the budget situation turned ever more grim. The economy was not responding to the plan, and the Congressional Budget Office now estimated that even if the previous $74 billion of unidentified cuts were made in fiscal years 1983 and 1984, the fiscal year 1984 deficit would equal $50 billion.

As the bad news continued to mount, the administration announced another multi-year budget plan to bring the deficit to zero by 1984. This fall budget plan included new spending cuts of $48 billion for fiscal year 1984 on top of the $51 billion that has already been cut by the administration's reconciliation plan passed in July.

After carefully evaluating this new administration plan, it was obvious that the numbers did not add up. This came as no surprise to the Nation's businessmen and financial markets, which had long been worried by the administration's unidentified cuts. It was then that I first offered legislation designed to clear the haze which surrounded the balanced budget plan.

After the surprising vote on my October 15 amendment, I sent a letter to Director Stockman on October 29. The letter asked Mr. Stockman to answer two crucial questions:

> First, what are the amounts of "unidentified" cuts for fiscal years 1982, 1983, and 1984 that are presently included in the President's Fall Budget Program? Second, based on the economic and budget situation as you see it today, what is your best estimate of spending reductions and revenue increases that are necessary to maintain the Fall Budget Programs' projected deficits of $43.1 billion in FY 1982, $22.9 billion in FY 1983, and a balanced budget in FY 1984?

Although this letter was sent nearly 3 weeks ago, I have received no response. Of course, those intervening days have brought some added pressures on Director Stockman, due to his candor in a national magazine. Unfortunately, that article confirmed the fear I had harbored all along, the fear that had caused me to offer legislation seeking clarification of the unidentified cuts and necessary tax increases assumed by the President's package.

The article depicted David Stockman as lightly dismissing this important matter of unidentified cuts. To him, the unidentified cuts, which held his deficit projections together, were just magic

asterisks. Well, I suppose magic asterisks have their place in a program the Vice President once labelled voodoo economics. Unfortunately, they have no place in the world of free market economics.

Government should seek to keep the investment horizon clear, not to fog it up by promising massive programmatic and tax changes without spelling out, in detail, the way such changes will be accomplished.

Without detailed information about which programs are scheduled for cuts, and which taxes are scheduled to be increased, there is no way to judge the likelihood that the administration's deficits will not balloon out of sight. Based on the last decade, and on the reception given to this September's budget proposals, investors, businessmen, and working people have good reason to doubt vague promises of future savings.

Without the detailed information I have called for in previous legislative initiatives, the risk-minimizing investor will not make risky productive capital investments.

Secretary Regan recently lashed out at the business community for not making new capital investments. He said:

We have carried through on our commitments . . . but where is the business response? Where are the new research and development initiatives? Where are the new plants? Where are the expansion plans? It's like dropping a coin down a well—all I'm hearing is a hollow clink.

The problem is not hollow clinks from business, but hollow promises from government. The administration may have decided to abandon its balanced budget goal for 1984, but I have not, and the Senate should not. If we abandon this goal, what point of reference do our business and labor leaders have as they try to plan for the future? If we abandon this goal, I am afraid we are jeopardizing economic recovery.

For that reason, I am proposing this amendment which would express the sense of the Senate that the administration should spell out in detail the necessary cuts and tax increases to balance the budget by 1984. It is time that we give the people of this country reason to believe in the projections and promises of their government.

I ask unanimous consent that my letter to Director Stockman, an article on Mr. Stockman from the Wall Street Journal, and a special report detailing the administration's flip-flops on the balanced budgets, be printed in the RECORD.

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

U.S. SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, D.C., October 29, 1981.

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

DEAR MR. DIRECTOR: On October 15, 1981, I offered an amendment to H.R. 4331, a bill to amend the Omnibus Reconciliation Act of 1981 to restore minimum benefits payments under the Social Security Act.

My amendment asked that you report to Congress a complete list of budget reductions and revenue increases that are necessary to achieve the FY 1982 and FY 1983 deficits, and the balanced budget for FY 1984 projected in the President's Fall Budget Program.

My amendment sought to identify all budget initiatives necessary to meet the Administration's most recent projections. This would include your latest internal revisions of the budget, as well as the "unidentified" savings assumed in the Fall Budget Program. Based on the information provided in the September 24, 1981, Fact Sheet released by the White House, it appears that there were "unidentified" cuts of $51.7 billion in FY 1983 and $82.0 billion in FY 1984.

Today, for the first time, I learned that the Office of Management and Budget privately disputes that the amounts of "unidentified" cuts in fiscal years 1983 and 1984 are that large.

To help clarify this situation, I would be grateful if you could immediately provide the answers to two questions. First, what are the amounts of "unidentified cuts for fiscal years 1982, 1983, and 1984 that are presently included in the Presidents Fall Budget Program? I believe these amounts should include any proposals that have not been transmitted to Congress.

Second, based on the economic and budget situation as you see it today, what is your best estimate of spending reductions and revenue increases that are necessary to maintain the Fall Budget Program's projected deficits of $43.1 billion in FY 1982, $22.9 billion in FY 1983, and a balanced budget in FY 1984?

I would appreciate your immediate attention to this matter.

Sincerely,

ROBERT C. BYRD.

[From the Wall Street Journal, Nov. 17, 1981]

WHY THERE'S LIFE AFTER DAVID STOCKMAN

(By Lindley H. Clark, Jr.)

David Stockman, the brilliant head of the Office of Management and Budget, clearly has ended his usefulness to the Reagan administration. If the President weren't such a nice guy he would have accepted Mr. Stockman's resignation last week and gotten on with the business of government.

That is not to say that there was anything evil or even wrong in what Mr. Stockman did. The long series of interviews with the Atlantic Monthly showed, if anything, that Mr. Stockman is a much better economist than anyone realized. But he also is a much less adept politician than most of us thought.

Supply-side economics means many things to many people, and the so-called supply-side economists often bicker among themselves. It starts with a fact, not a controversy. The U.S. has been lagging behind several other major industrial nations in the growth of productivity. No one can argue about that; the figures are there for everyone to see.

Large numbers of economists and businessmen go on from that fact to argue that the reason for low productivity gains is that Americans are overtaxed. The money that goes to Uncle Sam in taxes can't be invested in new plants and equipment that would make American business more efficient.

Well, there is controversy about that point. Some analysts point out that more than 20% of the nation's industrial plant stands idle and contend that this shows there is a limited need for new investment. But there is something like majority agreement that a step-up in new investment would be good for what ails us. Some of the idle plant, it's recognized, is simply inefficient. New technology creates a need for new spending on facilities if the U.S. is to keep up with its competition abroad.

But how do we encourage that new investment? Rep. Jack Kemp of New York in an early supply-side bill several years ago proposed to encourage investment directly with special tax concessions to business. But special tax breaks for business are awfully hard to sell unless they're accompanied by substantial tax breaks for individuals, especially low- and middle-income individuals.

What gradually evolved from such thinking was the so-called Kemp-Roth approach: cutting individual tax rates by 10% a year for three years, with the top rate reduced to 50% from 70%. It was to provide something for everybody, so it was easy to couple with it special tax benefits for business investment.

But there were a lot of old fuddy-duddies in Congress and elsewhere who thought that such sweeping tax cuts would mean huge budget deficits for three or four years, or until the increases in investment had a chance to generate new taxable income.

What to do? Well it was a job that required a little sales engineering.

There were supply-siders around who thought that the Kemp-Roth tax cuts would stimulate so much additional work and investment so fast that budget deficits would not be a major worry. A few even argued that deep cuts in federal spending would not be necessary to make satisfactory progress toward getting the budget under control.

The real extremists, however, never had a handle on policy. Supply-siders within the administration, such as Treasury Under Secretary Norman True and Mr. Stockman, from the start were certain that deep budget cuts were absolutely essential.

But what everyone was playing with here were people's expectations. The reason for planning annual tax cuts for three straight years was to encourage the public to do some long-term planning. The hope was that citizens, confronted by a government bound and determined to beat inflation and assured that they could keep more of their income, would indeed work harder and invest more.

The numbers that went with this were never any more solid than the planners' hopes. With hindsight it's easy to wish that the administration had been more candid, less optimistic. Many economists who fully supported the Reagan program from the start were deeply skeptical of the forecasts that accompanied it.

It's easy to suspect that the optimistic forecasts were formulated in part to sell the program to Congress. It would be hard for a lawmaker to vote against a tax cut if he believed that the cut would not mean bigger budget deficits and more inflation just ahead.

Whether or not salesmanship was the aim, the administration's chickens have come home to roost. It is not enough to argue, as Mr. Stockman apparently did in the Atlantic interviews, that Congress Christmas-treed the administration tax bill. Of course it did. But the administration tax cuts were somewhat reduced and somewhat delayed, too. It may be that the size of the eventual tax cut wasn't much different from what the administration asked.

Excessively optimistic forecasts are hardly new in government, but the Reagan administration had seemed to promise us something better. The administration in the past week has made a good start toward clearing the air, toward providing the sort of candor that probably would have been better from the first.

What the country needs now is more of the same. An essential spokesman for such a policy is the head of the Office of Management and Budget. David Stockman, who evidently realized that the official forecasts were wrong months ago but kept quiet in public, has disqualified himself for the job.

There is nothing fundamentally wrong with the Reagan policy. If the administration will level with the country, there will indeed be life after David Stockman.

SPECIAL REPORT—DEMOCRATIC POLICY COMMITTEE

This Administration is committed to a balanced budget, and we will fight to the last blow to achieve it by 1984. . . .

We will not sit on our hands and watch helplessly as the deficit swells and swells—President Ronald Reagan, Sept. 21, 1981.

I did not come here to balance the budget—not at the expense of my taxcutting program and my defense program. If we can't do it in 1984, we'll have to do it later—President Ronald Reagan, Newsweek, Nov. 16, 1981.

THE BALANCED BUDGET: ANOTHER BROKEN PROMISE

After nine months of predictions that a balanced budget in 1984 would be a reality, the Administration finally admitted what non-Administration economists were saying all along. Given the Administration's economic plan, it cannot happen.

Below is a history of select quotes about the balanced budget starting with September, 1980, and ending in November, 1981.

Ronald Reagan: September 9, 1980—We must balance the budget, reduce taxes, and restore our defenses. These are the challenges. . . . I know we can do these things, and I know we will—Source: Address to the International Business Council.

Ronald Reagan: September 21, 1980—I believe the budget can be balanced by 1982 or 1983—Source: Anderson-Reagan debate.

Ronald Reagan: October 28, 1980—I have submitted an economic plan . . . and believe that over a five year projection, this plan can permit the extra spending for needed refurbishing of our defensive posture, that it can provide for a balanced budget in 1983 if not earlier, and that we can afford—along with the cuts that I have proposed in government spending—we can afford the tax cuts I have proposed. . . .—Source: Carter-Reagan debate.

February 3, 1981—And he (President Reagan) told interviewers in the Oval Office that "one of the things I have not retreated from is the 1983 target" of a balanced budget.—Source: The New York Times, Feb. 4, 1981.

February 18, 1981—By fiscal 1984—under the policy recommendations presented in this document—the Federal budget should be in balance—Source: America's New Beginning: A Program for Economic Recovery.

March 2, 1981—Budget director David A. Stockman said yesterday that the Reagan administration will propose further spending cuts if a weakening economy later this year threatens to increase the budget deficit. . . .

Stockman said that if such a trend develops this spring, the Reagan administration would "as a matter of basic policy, look for offsetting economies," rather than accommodate that kind of growth in the deficit. "It may not be a 100 percent offset," he said, "but we would not allow the budget to become hostage to the economy"—Source: The Washington Post, Mar. 3, 1981.

President Ronald Reagan: September 15, 1981—I'm as committed today as on the first day I took office to balancing the budget, freeing the people from punitive taxation, and making America once again strong enough to safeguard our freedom. And I'm surer today than I ever was that we can achieve all three of these things. We'll continue to make budget adjustments as needed, and we'll hold the line.—Source: Remarks at a White House Reception.

President Ronald Reagan: September 21, 1981—This Administration is committed to a balanced budget, and we will fight to the last blow to achieve it by 1984. . . .

We will not sit on our hands and watch helplessly as the deficit swells and swells.—Source: Address to the National Federation of Republican Women.

President Ronald Reagan: September 24, 1981—Maybe you'll remember that we were told in the spring of 1980 that the 1981 budget, the one we have now, would be balanced. Well, that budget, like so many in the past, hemorrhaged badly and wound up in a sea of red ink.

I have pledged that we shall not stand idly by and see that same thing happen again.—Source: Televised Address to the Nation Sept. 24, 1981.

OMB Director David Stockman: October 26, 1981—I don't think anybody's talking about literal accounting balance or making a fetish (of a balanced budget).—Source: The New York Times, Oct. 29, 1981.

White House Communications Director David Gergen: October 29, 1981—The President is sticking firmly to the idea of a balanced budget in 1984.—Source: The New York Times, Oct. 31, 1981.

October 30, 1981—Testifying before the Senate Budget Committee, Mr. Regan said it is 'possible, but not probable' that the goal (of a balanced budget) will be reached.—Source: The Baltimore Sun, Oct. 31, 1981.

Treasury Secretary Donald Regan: November 6, 1981—We will not be able to achieve a balanced budget by 1984, but we will be on a path leading to a balanced budget.—Source: The Baltimore Sun, Nov. 7, 1981.

President Ronald Reagan: November 6, 1981—I've never said anything but that it was a goal. And the eventual goal, whether it comes then (in 1984) or whether it has to be delayed or not, is a balanced budget.—Source: The Washington Post, Nov. 7, 1981.

President Ronald Reagan: November, 1981—I did not come here to balance the budget—not at the expense of my tax-cutting program and my defense program. If we can't do it in 1984, we'll have to do it later.—Source: Newsweek, Nov. 16, 1981.

REAGAN ADMINISTRATION BUDGET PLANS

	Fiscal year—		
	1982	1983	1984
SEPTEMBER 1980			
Receipts:			
"Current Law" estimate	712	828	951
Proposed policy changes:			
Tax reductions	−61	−107	−149
Increased revenues due to additional economic growth	+10	+18	+20
Net receipts	661	739	822
Outlays:			
"Current Law" estimate	710	778	845
Proposed policy changes: Budget reductions:			
Partial cuts	−28	−39	−51
Full cuts	−43	−62	−85
Net outlays:			
With partial cuts	682	739	794
With full cuts	667	716	760
Projected deficit/surplus:			
With partial budget cuts	−21	0	+28
With full budget cuts	−6	+23	+62
MARCH 1981			
Receipts:			
"Current Policy" estimate	701.6	806.2	915.5
Proposed policy changes:			
Tax reductions	−53.9	−100.0	−148.1
User charges	+2.6	+2.9	+3.3
Net receipts	650.3	709.1	770.7
Outlays:			
"Current Policy" estimate	736.5	806.5	866.7
Proposed policy changes:			
Specified current budget reductions	−48.6	−67.2	−81.2
Unspecified future budget reductions	0	−29.8	−44.2
Defense increases	+6.2	+20.7	+27.0
Nondefense increases	+1.2	+1.8	+1.9
Net outlays	695.3	732.0	770.2
Projected deficit/surplus	−45.0	−22.9	+.5
Projected deficit/surplus without future budget cuts (unspecified only)	−45.0	−52.7	−43.7
JULY 1981			
Receipts:			
Revised estimate	699.3	798.2	907.5
Proposed policy changes:			
Tax reductions	−38.2	−94.1	−150.6
Revenue increases	+1.2	+1.7	+2.1
Net receipts	662.4	705.8	759.0
Outlays:			
Revised estimate	704.8	758.5	802.7
Proposed policy changes: Unspecified future budget reductions	0	−29.8	−44.2
Net outlays	704.8	728.7	758.5
Projected deficit/surplus	−42.5	−22.9	+.5
Projected deficit/surplus without future budget cuts (unspecified only)	−42.5	−52.7	−43.7
SEPTEMBER 1981			
Receipts:			
Revised estimate	663.2	706.1	760.0
Proposed policy changes: Revenue increases	+3.0	+8.0	+11.0
Net receipts	666.2	714.1	771.0
Outlays:			
Revised estimate	722.3	769.0	818.8
Proposed policy changes:			
Specified future budget reductions	−13.0	−20.3	−24.8
Unspecified future budget reductions	0	−11.7	−23.0
Net outlays	709.3	737.0	771.0
Projected deficit/surplus	−43.1	−22.9	0
Projected deficit/surplus without future budget cuts (specified and unspecified)	−56.1	−54.9	−47.8

Mr. HATFIELD. Mr. President, it is with great reluctance—unless someone else wishes to speak to this subject—that I observe that this is primarily a matter relating to the Budget Committees of the Senate and the House, and, therefore, I move to table the amendment.

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

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, no debate is allowed, but I ask unanimous consent that I may proceed for 30 seconds.

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

Mr. ROBERT C. BYRD. Does the distinguished Senator move to table the amendment in the second degree or the amendment in the first degree by which both amendments would fall?

Mr. HATFIELD. My intent was to move to table the underlying amendment, to bring down the entire vehicle.

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

Mr. President, what the motion would do would be to table my amendment in the first degree, which changes the date on the continuing resolution from September 30, 1982, to December 19, 1981; and, in addition, would table my amendment in the second degree, which is the sense of the Senate amendment calling on the administration to submit a balanced budget for fiscal year 1984 and to identify all the details with respect to budget cuts and tax increases required to achieve such balanced budget.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the underlying amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

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

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) and the Senator from Vermont (Mr. LEAHY) would vote "nay."

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

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 397 Leg.]

YEAS—50

Abdnor	Garn	McClure
Andrews	Gorton	Murkowski
Armstrong	Grassley	Nickles
Baker	Hatch	Packwood
Boschwitz	Hatfield	Percy
Chafee	Hawkins	Pressler
Cochran	Hayakawa	Quayle
Cohen	Heinz	Roth
D'Amato	Jepsen	Rudman
Danforth	Kassebaum	Schmitt
Denton	Kasten	Simpson
Dole	Laxalt	Specter
Domenici	Lugar	Stafford
Durenberger	Mathias	Stevens
East	Mattingly	Symms
Thurmond	Wallop	Weicker
Tower	Warner	

NAYS—47

Baucus	Exon	Melcher
Bentsen	Ford	Metzenbaum
Biden	Glenn	Mitchell
Boren	Hart	Moynihan
Bradley	Heflin	Nunn
Bumpers	Helms	Pell
Burdick	Hollings	Proxmire
Byrd, Harry F., Jr.	Huddleston	Pryor
	Humphrey	Randolph
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Chiles	Johnston	Sasser
Cranston	Kennedy	Stennis
DeConcini	Levin	Tsongas
Dixon	Long	Williams
Eagleton	Matsunaga	Zorinsky

NOT VOTING—3

Dodd	Goldwater	Leahy

So the motion to lay on the table Mr. ROBERT C. BYRD's amendment (UP No. 651) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, may I have recognition for a moment?

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. BAKER. Mr. President, if we could have order in the Senate for a minute, I wish to make an inquiry and perhaps an announcement.

It is 6 o'clock, Mr. President. It is my intention to ask the Senate to recess over at 6:30 until tomorrow at 10.

RECESS UNTIL 10 A.M. TOMORROW

Mr. President, I now ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

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

Mr. BAKER. Mr. President, if I could inquire of the distinguished managers of the bill on both sides is there another amendment that we could do before 6:30?

D.C. APPROPRIATIONS BILL

Mr. HATFIELD. Mr. President, it would be our hope to take up, perhaps, one brief one and two colloquies, and then set the bill aside temporarily and take up the D.C. appropriations bill. We have no amendments we are aware of and it could be passed very quickly, and no rollcall is expected.

Mr. PROXMIRE. As I understand, the Senator from Massachusetts has an amendment which, I think, we can handle very quickly.

Mr. BAKER. Could I inquire of the managers then if you do go to the D.C. appropriations bill do you expect a record vote or can you arrive at final passage without one?

Mr. HATFIELD. There is no report of any request for a record vote that we have before us.

Mr. PROXMIRE. The Senator from New York, who is managing the bill indicates there will be no record vote.

Mr. D'AMATO. There will be no record votes.

Mr. BAKER. All right. It would appear that the schedule for the remainder of the evening——

The PRESIDING OFFICER. The Senate will please be in order.

Mr. BAKER. Mr. President, it would appear then that the schedule for the remainder of the day will be to conclude a colloquy on this measure, as described by the distinguished Senator from Oregon, and to temporarily lay aside the pending measure.

I now ask unanimous consent that we may lay aside the pending measure temporarily, following after the colloquy to be conducted by the Senator from Oregan and another Senator, and proceed then to the consideration of the D.C. appropriations bill. Mr. President, I make that request at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, assuming that the estimates I have received all around are correct, and if there is no requirement for a rollcall vote on the D.C. appropriations bill, I believe there will be no further record votes today.

Mr. PROXMIRE. Will the Senator yield? Does the Senator from Massachusetts, Senator KENNEDY, want a record vote?

Mr. KENNEDY. I do want a record vote.

Mr. BAKER. Let me say, then, before anybody misunderstands, apparently there is a request for a record vote on an amendment to be offered by the Senator from Massachusetts. So I withdraw the previous statement. There will be another record vote this evening.

Mr. SARBANES. Will the majority leader yield for a question on tomorrow's schedule?

SCHEDULE FOR THURSDAY

WAIVER—ALASKA NATURAL GAS TRANSPORTATION ACT

Mr. BAKER. Mr. President, at 10:30 a.m. tomorrow, it is the intention of the leadership to ask the Senate to proceed to the consideration of Calendar Order No. 378, Senate Joint Resolution 115, a joint resolution to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976. There is a statutory time limitation on that resolution of 1 hour, and a rollcall vote would be expected prior to the hour of noon, I would judge.

After that, Mr. President, it is the expectation of the leadership that the Senate will resume consideration of House Joint Resolution 357, Calendar Order No. 382, the continuing resolution and proceed through the day tomorrow, and late into the evening tomorrow evening, in a determined effort to try to finish the continuing resolution before the expiration of our business on tomorrow.

Mr. HATFIELD. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HATFIELD. Is it the statutory time which requires this matter to be taken up tomorrow? Could it be taken up on Friday? Otherwise, we will not get back on the continuing resolution until

at least noon. We still have to go to conference with the House whenever we complete the continuing resolution and get the report back here and wait for the House to act and get it all done before Friday, midnight.

Mr. BAKER. Mr. President, I believe, under the terms of the statute, it would be possible to do this on Friday instead of Thursday. But I would ask the Senator from Oregon to indulge us, if he will, because for some days now we have tried to arrange a time that meets the maximum convenience of Senators who are deeply involved. I would especially ask the Senator from Alaska to speak to this point on the question of whether or not we could do this on Friday instead of Thursday.

Mr. STEVENS. I would say to my good friend that we agreed to put it off from Wednesday to Thursday already, because it would have interferred sometime at noon here today. Under the statute, it has a 1-hour time frame and it is a priority matter, a privileged matter. I do not see anything to gain by putting it off.

Mr. HATFIELD. Mr. President, I will not belabor the point. But I think the continuing resolution, the Government is in jeopardy of being brought to a halt unless we act upon it before midnight on Friday night. I have had complaints of many of my colleagues in the past about being pushed up to the midnight hour and then the House having adjourned and gone home and saying that we have to either bail out the Government or let it fall. I do not see anything that takes a higher priority at this time. But that may be my own bias.

Mr. STEVENS. Let us review it again. It took a long time to get that agreement with regard to who is here and who is not here. We have the agreement for tomorrow. I would not like to put it off unless we get a similar agreement for Friday.

Mr. BENTSEN. I would like to say that a number of us made certain commitments for tomorrow.

Mr. BAKER. Mr. President, I hope the Senator from Oregon would not press that point. I think it is almost a foregone conclusion that we are going to have to be here late tomorrow night. This might mean that we are going to be in another hour later than we would be in. The waivers have to be addressed and taken care of this week. So, Mr. President, I would like very much to go ahead on that basis.

Mr. HATFIELD. Mr. President, I am not going to object. If there is a unanimous-consent request pending, I will not object and just invite everyone to bring their dinner on Friday night.

Mr. President, may we proceed at this point? Is there any request pending?

Mr. BAKER. Mr. President, I would like to make this request. Let me make this request and if there is objection, it can be stated.

ORDERS FOR THURSDAY

Mr. President, I ask unanimous consent that on tomorrow after the recognition of the two leaders under the standing order, that the Senator from Delaware (Mr. BIDEN) be recognized for not to exceed 15 minutes on a special order. Following the special order so provided for, I ask unanimous consent that there be a period for the transaction of routine morning business to extend not past the hour of 10:30 a.m., with statements therein limited to not more than 2 minutes each. Also, Mr. President, I ask unanimous consent that at 10:30 a.m., the Senate turn to the consideration of Calendar Order No. 378, Senate Joint Resolution 115, a joint resolution to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976. Finally, I ask unanimous consent that following conclusion of the debate and disposition of that measure—and may I say parenthetically there is a 1-hour statutory time limitation on that measure—that the Senate resume consideration of Calendar Order No. 382, House Joint Resolution 357, the continuing resolution.

The PRESIDING OFFICER (Mr. SIMPSON). Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, could I make one further inquiry? The Senator from Massachusetts has indicated to me that he does require a rollcall vote on his amendment. I would like to do that amendment tonight. Is there not already an order to lay aside this measure after a colloquy to be conducted and proceed with the consideration of the D.C. appropriations conference report?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, may I say, then, that as soon as the amendment of the Senator from Massachusetts is disposed of by a rollcall vote, there will be no further rollcall votes this evening.

Mr. STEVENS. Is there a time limit on the amendment of the Senator from Massachusetts on the D.C. appropriations bill?

Mr. HATFIELD. There is no time agreement.

Mr. STEVENS. Is the Senator prepared at all to consider a time agreement on his amendment to the D.C. appropriations bill?

Mr. KENNEDY. The amendment which I intend to offer was to the continuing resolution. I have no amendment to the D.C. appropriations bill.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield to the Senator from Rhode Island for a brief statement.

Mr. BAKER. Mr. President, will the Senator from Rhode Island permit me to interrupt?

Mr. CHAFEE. Yes.

Mr. BAKER. Mr. President, if that is the case, we have the matter fouled up here a little bit. Do I understand that the amendment of the Senator from Massachusetts is to the continuing resolution?

Mr. KENNEDY. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that that portion of my request dealing with temporarily laying aside this measure to proceed to the D.C. appropriations conference report follow on after both the colloquy and the disposition of the amendment of the Senator from Massachusetts.

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

Mr. STEVENS. Having done that, would the majority leader again let me inquire if it is possible to get a time agreement on that amendment to the continuing resolution?

Mr. KENNEDY. I would be delighted to enter into a time limitation of maybe a half an hour, 15 minutes for each side. It is a simple amendment. It is basically to add additional resources for job training, youth training, given the problems that we are facing with increasing unemployment. It is an issue that is well understood by the Members of this body. I do think it is important, given the reports this morning and yesterday about the continuing growth in unemployment. I wish to be able to address that issue before the Senate, but I am not interested in taking time. Those are programs that are well understood by the membership. I think it is important to point out to the Senate what the continuing resolution includes and what will happen unless this particular amendment is accepted for job training for the young people of this country.

Mr. BAKER. Mr. President, in view of the statement by the distinguished Senator, I ask unanimous consent that there be a time limitation on this amendment of 30 minutes equally divided with control of the time to be in usual form.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, and I hope I will not object, the amendment of the Senator from Massachusetts deals with what?

Mr. KENNEDY. With training programs.

Mr. SCHMITT. And to what level does the Senator wish to increase it?

Mr. KENNEDY. To increase it up to the House level.

Mr. SCHMITT. That is an increase of $200 million?

Mr. KENNEDY. It would still be significantly below the reconciliation figure.

Mr. SCHMITT. But it is an increase of $200 million?

Mr. KENNEDY. The Senator is correct.

Mr. BAKER. Mr. President, let me make another inquiry. We will have 30 minutes on this amendment to the continuing resolution. I wonder if the Senator from Massachusetts would be agreeable to take up this matter on tomorrow. I think that is the better part of discretion.

I may say that the Senator from Massachusetts suggested that in the first instance. I was the one who insisted that we do it tonight. But now I not uncharacteristically have changed my mind.

Mr. KENNEDY. Mr. President, I indicated earlier today that I had an amendment and would be prepared with 2 or 3 minutes notice to offer it. I think I had about a minute notice. I can take a shorter period of time.

Frankly, I am interested in having more Members here than a longer period of time. If we debate this in the morning, we will be lucky to have three or four Members. I will shorten the period of time. If I can have 2 minutes to get the amendment over here, we can vote at 6:30, with 7 minutes on each side.

I would rather have the Members here listening to the debate than to be talking to an empty Chamber. To call the roll at 6:30 would be fine.

Mr. BAKER. Mr. President, I so amend my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, is the Senator from Massachusetts ready to proceed with his amendment?

SECOND CONTINUING APPROPRIATIONS, 1982

The Senate continued with the consideration of the joint resolution (H.J. Res. 357).

UP AMENDMENT NO. 659

(Purpose: To increase the appropriations for the Youth Employment Demonstration Program, the Job Corps Program, the Summer Youth Program, and the Private Sector Opportunities for the Economically Disadvantaged Program under the Comprehensive Employment and Training Act)

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. EAGLETON, Mr. RIEGLE, Mr. PELL, Mr. RANDOLPH, Mr. WILLIAMS, and Mr. METZENBAUM, proposes an unprinted amendment numbered 659.

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

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

The amendment is as follows:

At the end of the resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there are appropriated—

(1) $200.000,000 for part A of title IV of the Comprehensive Employment and Training Act relating to the Youth Employment Demonstration Program,

(2) $28,000,000 for part B of title IV of such Act relating to the Job Corps,

(3) $91,932,000 for part C of title IV of such Act relating to the Summer Youth Program, and

(4) $14,700,000 for title VII of such Act relating to the Private Sector Opportunities for the Economically Disadvantaged Program,

which are in addition to the amounts appropriated under this joint resolution which would otherwise be made available under H.R. 4560, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982, as reported to the Senate on November 9, 1981, for such programs.

Mr. KENNEDY. Mr. President, as I understand, we are to vote on this amendment at 6:30. What I would like to do is to ask that the time be evenly divided.

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

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I consider this amendment to be the most important anti-recession amendment that we will have an opportunity to consider during the Senate's debate of the continuing resolution. It is directed toward employment and training assistance for unemployed young people and adults. It would add $334 million to the resolution to restore four programs to the funding levels agreed to by the House.

Any Member of this body who has read the reports in the last 48 hours by the Secretary of the Treasury, the Secretary of Commerce, and the chairman of the Council of Economic Advisors and listened to the Director of the Bureau of Labor Statistics of last week, saw the significant rise in unemployment. The unemployment figures last week were announced at 8 percent, 1 million more men and women unemployed today than in July of this last year. The best estimate is that it will go up to 9 percent before the President's program, even if it works, will begin to have some impact on unemployment.

Last spring, the Senate, in reconciliation, approved a total of $2.2 billion for youth training, Job Corps, summer jobs, and the private sector initiative program.

The House concurrent resolution is at $2,058,000,000. The Senate is at $1,700,000,000.

This amendment adds $334 million, which will put the Senate concurrent resolution at the same level as the House concurrent resolution, $250 million less than what the Senate accepted in reconciliation just a few short months ago.

This amendment will bring the Senate bill in line with the funding levels set by the House for four programs designed to provide work experience and skill training to unemployed youth and adults. More precisely, my amendment would:

Add $200 million for year round youth jobs and training.

Restore $92 million to next year's summer jobs program.

Provide $28 million to Job Corps; and restore $14 million to the title VII private sector initiative program.

Mr. President, this country is in a recession. Last month unemployment rose to 8 percent nationally. Just this week the chairman of the President's Council of Economic Advisors and the Secretary of Commerce have raised the specter of 9 percent unemployment and many believe it will go higher. There are more Americans out of work now than at the height of the Great Depression.

We all hope the administration's forecast of a spring thaw in this frosty economic picture proves correct. But, these rosy predictions have an all too familiar Republican ring. I am reminded of Herbert Hoover's campaign theme in 1932—"Prosperity is just around the corner."

For most of us the Great Depression is just a memory, a historic interlude. But for too many of our fellow Americans the current recession has become a depression. In States like Michigan and Ohio, unemployment is in double digits. Workers there have been without a pay check for a year or longer with no prospects for early relief. Last month, my own State of Massachusetts, with an economy that had been described as recession-proof, suffered the single largest increase in unemployment of any industrialized State. Since April, unemployment there has jumped more than 2 points, going from 5.6 to 7.9 percent.

And these figures do not begin to tell the story for some workers. Unemployment among blue collar workers is 11 percent. Unemployment in the construction industry is 18 percent. And for the least advantaged in our society the situation is disastrous. Unemployment among minorities is at record levels, almost 15 percent for blacks and Hispanics. Unemployment among teenagers is over 20 percent, 43 percent of minority teens cannot find work and the rate just for Black teens alone is a staggering 46 percent.

Yet, despite these bleak reports, and the administration's admission that it is going to get worse, we are told to hold our course, accept more cuts and be patient—"prosperity is just around the corner."

The amendment I am proposing is a modest one. It is intended to provide a few more opportunities for the truly needy in our society who cannot find work now to get the skills and education and experience they will need to qualify for the millions and millions of new jobs the President has promised when prosperity does return. My proposal would permit a few thousand more unemployed adults to get classroom and on-the-job training in skills centers like the nationally recognized one in Springfield, Mass. There, individuals who have run out of options are training for good-paying jobs with a future. It would insure 90,000 more teenagers part-time jobs and the basic education they need to get their high school degrees. It will mean another 94,000 youngsters will be gainfully employed next summer, and finally it will give 4,000 more young adults a chance at Job Corps. It would also insure that three new Job Corps Centers in Illinois, New York, and Kentucky will open as planned.

I want to emphasize that these funds are not for public service jobs. They are to train the unemployed for private sector jobs. Even with the additional resources I have proposed, these programs would still operate at or below the levels authorized in reconciliation.

Two of these programs—Job Corps and summer jobs—were part of the "safety net" President Reagan announced last March. But by September these programs and those who benefit from them had fallen through. My amendment would put these programs back in the safety net.

President Reagan also promised to give the private sector a greater voice in designing and operating federally funded training programs. Title VII was the only program he held harmless in his September budget yet the Senate bill cuts $38 million below the President's request. My amendment would add just $14.7 million to bring the private sector initiative program back to the higher levels supported by the House.

You may ask what evidence we have that these programs work. Recently released findings by Dr. Robert Toggace writing for the W. E. Upjohn Institute and the General Accounting Office, provide conclusive evidence that training programs are cost effective both for society and for the individuals who are served.

Those in classroom and on-the-job training gain between 10 to 18 percent more in earnings in the first year after the program than similar individuals not enrolled.

Job Corps graduates earned 21 percent more than their peers 2 years out of training.

Evidence is also clear that training programs reduce crime and cut the costs of welfare and other income transfer programs.

In short these training programs work. They are good business. It is the best kind of supply-side economics. It is an investment in human resources that yields a positive return.

Mr. President, I would like to share with my colleagues an article from the November 9 issue of the Boston Globe which tells the story of Timothy Holding who lost his job because of the Reagan budget. Timothy's out, his only option, was a life of crime. The amendment I am offering is intended to insure that there are productive alternatives for the thousands of other Timothys in this country.

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

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

[From the Boston Globe, Nov. 9, 1981]

TIMOTHY HOLDING'S PATH TO A COURTROOM

(By Todd Balf)

Eighteen-year-old Timothy Holding of Revere is under police guard at Boston City Hospital, where he is recovering from a gunshot wound to the temple. Last week he told a former CETA youth program director who visited him that he'd "messed up."

Florence Cirino said Holding told her, "Flo, I messed up, I'm sorry, Flo. I messed up."

Timothy Holding's past includes years of shuttling between his divorced parents and switching schools. He dropped out of 10th grade and was convicted for robbing an MBTA turnstile when he was 17. His future is uncertain. He is facing court arraignment in connection with a bungled armed robbery attempt in Charlestown.

Holding faces charges of armed robbery, assault with intent to kill and unlawful possession of a firearm when he leaves the hospital. He was shot in the left temple by off-duty Boston police detective Joseph Smith Jr. on Oct. 30 when, police said, he held a .38 caliber revolver on 20 persons in the New England Merchants National Bank in Charlestown.

Holding and a 17-year-old youth carrying a derringer were arrested while a third suspect escaped, police said.

Counselors, friends and acquaintances of Timothy Holding who were interviewed last week say his record, his inability to read and write effectively, his broken home and the fact that he could not find steady employment may have contributed to his frustration and anger. Among young adults like Holding, these people said, such problems more frequently are erupting into violence.

"All we want people to know is that Timmy's not unique," said Cirino, the former director of CETA's Youth Activity Programs in Revere, Chelsea and Winthrop. "There are hundred of kids around just like Timothy," said Cirino.

Born in Charlestown, Timothy Holding is one of five children of Donald and Barbara Holding. After moving to Saugus, the couple were divorced when Timothy was 11 years old and custody of the children was won in court by Mrs. Holding, according to Donald Holding of Revere.

"After we split up," said Holding, "Timmy became mixed up. It hit him the hardest," he said in an interview.

Timothy Holding continued to attend school, according to his father, but gave up trying to learn after he was forced in both elementary and high school to repeat grades. Holding explained that his former wife and his children moved several times to different apartments in Charlestown and East Boston.

"He'd just disappear from everybody and be by himself," said Holding yesterday. He said that on several occasions his teenage son disappeared for long periods and he had to search for him.

CETA counselors said that when Holding quit school after his sophomore year, he had the equivalent of a fourth-grade education.

Six months later, at age 17, Holding and several other youths robbed an MBTA turnstile and received a year's probation according to court records. Timothy moved in with his father soon afterwards. His probation officer handed Holding's case to Cirino in March.

"Timothy had a long way to go," said Frank Nemeth, Holding's chief supervisor and friend in the CETA program. In March, he gave Holding the first job he'd had in two years.

"But Timmy was one of the guys I could trust," he said. "He could hardly construct a sentence," Nemeth said, "and he was so frustrated. But he tried."

"He was so excited and happy because finally he had a job," said his father.

Nemeth said the 18-year-old with short dark hair and a baby face was one of three persons on a CETA crew that weatherized local businesses by installing insulation and weather-stripping. He received the minimum wage.

On September 30, with less than a week's notice, Timothy Holding and 1000 other youths in his CETA program found themselves out of work when CETA's federal subsidy was cut by the Reagan Administration.

Cirino said counselors desperately tried to place Timothy Holding in a job. Cirino, Nemeth and CETA coordinator Eleanor Mahon said Holding was worthy of placement because of his punctuality, effort and initiative.

But, unlike many of his friends, Holding failed several skills tests which could have placed him in a job. On his own, he took the exam to enlist in the National Guard, according to Nemeth. He failed again.

"He tried in several places to find a job," said his father. "But he did not have the training or the education. And he needed money."

"It's in the people's own interest' to pick up on kids like this," said Nemeth. "There are many kids who want to be productive citizens but need help getting there. Who does it pay off in the end if we have to send a kid to Walpole for 20 years?"

Timothy Holding is listed in stable condition at Boston City Hospital. No date has been set yet for his arraignment.

Mr. KENNEDY. Mr. President, I urge my colleagues to keep faith in all those Timothy's and support this modest addition to the Senate resolution to provide the jobs and training the unemployed so desperately need.

Mr. SCHMITT. Mr. President, this is a very large addition to the bill as reported by the Appropriations Committee which is part of this continuing resolution by reference.

The committee is not oblivious to the facts which the Senator from Massachusetts has given us. As a matter of fact, they were considered very carefully in our recommendation to the Senate.

The committee has included $200 million to continue the youth employment and training programs together with, and I emphasize this, Mr. President, an estimated $195 million of unspent prior years funds. A total of $395 million would be available to enroll an estimated 195,000 youths. The House has included $400 million for the youth employment training program, and this is only part of the amendment, plus carryover, for a total of $595 million.

A split in the conference in this area, I say to the Senator from Massachusetts, should that occur, would provide a total level of nearly $500 million.

The President's September request, as he knows, is $213,782,000. In March, he had proposed eliminating the program but revised his proposal after Congress reauthorized it with a funding ceiling of $576 million in the omnibus reconciliation bill.

The Senate Appropriations Committee also included report language to limit unnecessary stipends for enrollees during training. Stipends amount to about 20 percent of the cost of CETA training programs, and are currently given to all enrollees, regardless of need. If stipends were given only to the most needy students, at least 10 percent could be saved and used instead to expand enrollment opportunities.

The total recommended for all CETA programs is $3.2 billion—of which two-thirds is for youth. All of the Job Corps, funded at $600,000,000, is for youth; another $674,168,000 is included for summer youth jobs. Half the remaining $1.7 million in CETA funding serves youth, for an estimated total of $2.3 billion for youth out of the $3.2 billion in overall CETA funding.

Even though the youth unemployment rate is now on the average, over 20 percent and even more for minority youth, thousands of unskilled jobs go begging every month. In September, State Employment Services offices listed 340,000 job openings nationwide. Fast-food restaurants are generally always looking to hire, and openings remain unfilled for janitors, farm workers, service station attendants, and salespeople.

So the Senate Appropriations Committee, particularly the subcommittee that I chaired, tried very hard to target the resources available to us on jobs that were going to create skills that could be used in the marketplace.

I think, Mr. President, that that covers the major provision the Senator from Massachusetts has proposed—that is, an additional $200 million for part A of title IV of the Comprehensive Employment and Training Act. Similar arguments can be made relative to the other somewhat smaller but still significant additions.

Mr. President, the total of the Kennedy amendment would be an addition of $334.7 million.

I say, Mr. President, in conclusion, we are going to take this bill to conference. I am absolutely convinced of it. The leadership has guaranteed that everyone will have a chance to offer amendments such as this on the bill as a whole. We shall get to conference at the earliest possible time. I think there are definite incentives for the House to go to conference and the Senator from Massachusetts will see some significant increases, more than likely, as a result of conference action.

I hope the Senate will disapprove his amendment at this time and delay consideration again until the regular Labor-HHS-Education bill is before the Senate.

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

Mr. KENNEDY. Mr. President, the Senate, in its judgment, passed a reconciliation bill, which authorized $2.2 billion for these programs. That was just last July. Since July, 1 million more people are out of work. Youth unemployment for minority youth has gone up in excess of 10 percent. This body, in July, made the estimate that $2.2 billion was a bare minimum figure to deal with youth unemployment, particularly those who were facing the hardest time acquiring skills.

Mr. President, we have had a dramatic increase in the needs of young people since July of this year, but still, the Committee on Appropriations comes back and says to us, "We are effectively going to reduce that $2.2 billion in the Senate by over $500 million."

Mr. President, that response bears absolutely no relationship whatsoever to the needs and to the changing economic conditions. Those unemployment predictions were not stated by those who have differed with the economic policies of the administration, but by Mr. Regan himself, who is the Secretary of the Treasury, and Mr. Weidenbaum, the chairman of the Council of Economic Advisers, and Mr. Baldrige, the Secretary of Commerce.

They say that unemployment will not stop at 8 percent. It is going up to 9 percent and perhaps higher. If those predictions are accurate, there is going to be an even greater need for these youth training programs.

Mr. President, all that this amendment will do is restore $324 million to make our program comparable to the House. This level is still $200 million less than the Senate voted on in July of last year. What I am suggesting is that we take a look at the needs of young people in this country—some of whom had jobs in July and are out of jobs, others of whom had no opportunity to acquire jobs because of the economic conditions—so that, at least, we are giving them skills so that when there is some revival to our economy, they will have some sense of hope for the future. Mr. President, that is what this amendmnet does.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, the Senator from Massachusetts expresses, I think, the general sentiments of this body and the general sentiments of the Appropriations Subcommittee that I chair. Unfortunately, we have a limited budget. We have $85 billion in the Senate version of the regular Labor-HHS-Education bill, approximately 70 percent of which is in the entitlement area and that is going up almost exponentially. It is squeezing these programs to death.

I do not like it. As a matter of fact, as the Senator from Wisconsin knows, I tried to find a way to cap these entitlements, cap their growth so we can add money to these very programs. It was part of my proposal. But I do not have the votes in this body to do that, to override the points of order to give us some flexibility so we can fund these kinds of programs.

Given that, the proposals that the subcommittee made to the full committee and that are now before the Senate as a reported bill did take into account overall, looking at the total programs available for training young people, and actually increased the funding for programs like Job Corps that were going to the very problem that the Senator from Massachusetts has addressed.

We have done the very best we can, I say to the Senator, and until we can get some relief on entitlements, so we can go in and work on low-income energy assistance, student aid, higher education, and youth employment and training, which are discretionary programs, we are going to be stuck with these problems. I hope the Senator from Massachusetts will help when it comes time to convince others that we must cap the growth of those entitlements. They are totally out of control.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. One minute and 14 seconds.

Mr. KENNEDY. The point, Mr. President, is really, we are pitting the same groups, almost the same families, against each other. It is the same family that is going to be squeezed on medicaid, because of the cap on that, whose son is going to lose his job and whose grandson is going to be thrown out of a training program. The fact remains that within the concurrent resolution, it is going to be the same families that are going to be most affected.

I could point out other areas of the growth in terms of Federal expenditures, which I believe has taken place in terms of the tax expenditures over the period of time. We have debated those issues. We have to establish priorities here in this body.

It seems to me that what we have seen is that, with the dramatic reduction in job training programs, we are saying to young people in this country, "With regard to your programs, we can cut those back by some 40 percent, in spite of the significant increase in unemployment, while we are unprepared to cut back in some of the other areas."

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

Mr. KENNEDY. 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 support Senator KENNEDY's amendment to add $334.8 million to restore youth employment and training programs and the private sector initiative program to the House-passed levels.

This country faces a situation in which 1,800,000 of our young people are literally walking the streets in search of a job. In just the last month. the unemployment rate among minority youth rose from a shocking 37.5 percent to an astounding 42.9 percent. For white youth. the rate rose from 17 to 17.6 percent. Last month's overall unemployment figures represented the largest monthly increase in the number of unemployed in 5 years. The current number of unemployed is the largest number of unemployed since 1939.

And how does this continuing resolution seek to meet the needs of these unemployed, particularly the needs of youth aged 16 to 19 who are without jobs? Why, it reduces the previous level of support for year-round youth employment programs by a whopping 71 percent. It reduces last year's level of support for the summer youth employment program by 20 percent.

How callous can we be to say we are going to eliminate thousands of training slots for these young people? How callous can we be to say that we have already cut these programs substantially under reconciliation, so let us put the knife in a little deeper and twist it a little harder?

I know that the argument will be made that this is a continuing resolution, and that the Senate should not load it up with extraneous amendments, since it is only a stopgap funding measure. To those who are safely secure in their own livelihood, safely secure in their own jobs, the issue of unemployment may be extraneous. But to millions of other people, to 1,800,000 young Americans who are jobless—and for all practical purposes will remain jobless as they face the future without skills—there is no issue more transcendent, more important than the question of employment.

If one looks at the way the employment and training programs are funded under this continuing resolution, one would think that the recession must be over. There must be plenty of jobs out there in the private market. There must be no need to be concerned about people who are unemployed.

Nothing, Mr. President, nothing could be further from the truth.

On the front page of the Washington Post this morning, the administration's chief economic adviser is predicting that unemployment will climb to 9 percent, the highest level of unemployment since World War II, and that the "worst—of the recession—hopefully will be behind us as 1982 unfolds."

The front page of the New York Times carries a similar story, the lead paragraph of which reads as follows:

> President Reagan's chief economic adviser, Murray L. Weidenbaum, in an implicit acknowledgment that the recession will be neither mild nor brief, scaled back his forecast today for economic growth in 1982.

If we pass the continuing resolution today with the appropriations figures for employment and training programs as recommended by the committee, we are saying that the U.S. Senate does not give a damn about people who are not employed. If we allow these cuts to go through, we are taking away the only ray of hope for many Americans who have fallen by the wayside.

I will admit that some of the youth training programs in the past have been ineffective. I will admit that there has been some waste and abuse in these programs in the past. I remind my colleagues that these year-round youth programs were invented just 4 years ago; the private sector initiative program is only

3 years old. But again, I emphasize that they are new programs, programs which have had some growing pains, but programs which are now able to produce their desired results.

To back away from our commitment to job training programs now would be a deep mistake. It would be a move away from the very goals of this administration, which none of us would fail to support, of economic growth, of investments, and of productivity. We simply cannot strengthen our economy without investing in our single most important resource, our human capital.●

● Mr. BRADLEY. Mr. President, I am pleased to support the amendment of the Senator from Massachusetts which will restore needed funds for existing training and employment programs.

We need only look to the financial pages of our Nation's newspapers to see why these funds are needed. Among this week's headlines are the following:

Commerce Secretary Baldrige warns that unemployment could reach 9 percent under the President's economic recovery plan;

The President's chief economic adviser, Murray Weidenbaum, revised his estimate of 1982 economic growth from 3.4 percent to 1 percent; and

The Federal Reserve Board recently reported that our Nation's factories operated at 76.9 percent of capacity last month, only two percentage points above the lowest level of the last recession.

Unfortunately, I could continue with an extensive description of the sad shape of our economy: Bankruptcies are up, unemployment is up, housing starts are down, and real growth is, of course, down. At a time when our economy is in such shape and over 8½ million people are unemployed, the administration proposes with this continuing resolution to reduce the funds available for employment and training assistance.

The amendment which we propose would restore funds for many critical programs, including the Job Corps, the summer youth employment program, various private sector programs, and other youth employment programs. The House of Representatives' spending recommendation for all of the employment and training assistance is over $3 billion less than last year's appropriation. With this amendment we seek to restore $334 million to these particular programs.

It makes no sense whatsoever to reduce our commitment to employment and training assistance at a time when the administration itself concedes that we are in for "tough times ahead," as the Secretary of Commerce has said. I ask the Senate to approve this amendment and restore the necessary funds for these important programs.●

● Mr. CHILES. Mr. President, I want to speak briefly in support of this amendment to increase funding for youth job training. While I have been critical over the years of the CETA public jobs programs, youth training is another matter. We want disadvantaged youth to get the skills they need to work in our rapidly changing economy. When I look at everything happening in our economy, I see the potential of a serious shortage in skilled labor.

Mr. President, we have passed a huge tax incentive for capital investment. So that we can get a higher level of industrial technology. But higher technology requires workers with greater skills. At the same time, we are giving our military the resources they need to attract and retain skilled labor. Since the peak of the "baby boom babies" entering the work force has passed, we are going to have fewer youth going into jobs. That says to me that we have to put a greater emphasis on the quality of job skills, and make them available to all our youth.●

● Mr. PELL. Mr. President, I support the amendment of the distinguished Senator from Massachusetts (Mr. KENNEDY) to increase the funding of the CETA youth programs by $330 million.

Youth training programs authorized under the Comprehensive Employment and Training Act have provided interdisciplinary services necessary to give disadvantaged teenagers a "fair chance" in our society.

This amendment would bring funding for year-round youth training, summer jobs, Job Corps, and the private sector initiative program up to the levels that were approved by the House several months ago.

These are difficult budgetary times, Mr. President. But our young people are our country's greatest resource and deserve a chance for meaningful work experience.

Having served as chairman of the Subcommittee on Education for 12 years, I know that education and training programs take time. The fruits of our investment are often not realized immediately. I hope that my colleagues will consider the tremendous gains that are being made in this area by community-based organizations and local education authorities and vote to approve this amendment.

Mr. President, youth employment is at an alltime high level. There are not enough jobs in our cities for mature, skilled workers, let alone teenagers with little work experience. If the CETA youth programs are funded at the level proposed by the Senate Appropriations Committee, three-quarters of the high school dropouts, inner-city youth, and teenagers with special personal problems who are participating in the program will be dropped and, perhaps, lose whatever opportunity they might have had to break into the job market.

If this amendment is defeated, it sends a message to the American people that Congress does not consider the problem of youth employment serious enough to maintain the only Federal program that exists to solve the complex economic and social problem of youth employment. In my view, every young person, regardless of family income, should receive the necessary job training and experience to compete for permanent, secure jobs. Normally this training would be sponsored by the private sector. However, at a time when our general unemployment rate is approaching double-digit levels, it is unreasonable to expect that this will occur. Our Government, which in many ways has contributed to the current economic crisis, has a responsibility to this generation of teenagers and I hope that my colleagues will approve this amendment.●

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

Is a motion to table the amendment in order, under the unanimous-consent agreement?

The PRESIDING OFFICER. The unanimous-consent agreement was to the effect that a vote would occur on this amendment at 6:30, which would preclude a motion to table.

Mr. SCHMITT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. 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 Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Kansas (Mrs. KASSEBAUM) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

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

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

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

The result was announced—yeas 36, nays 58, as follows:

[Rollcall Vote No. 398 Leg.]

YEAS—36

Baucus	Hart	Metzenbaum
Biden	Heinz	Mitchell
Bradley	Hollings	Pell
Burdick	Huddleston	Pryor
Byrd, Robert C.	Inouye	Quayle
Cannon	Jackson	Randolph
Chafee	Kennedy	Riegle
Chiles	Levin	Sarbanes
Cranston	Long	Sasser
Dixon	Mathias	Specter
Eagleton	Matsunaga	Tsongas
Ford	Melcher	Williams

NAYS—58

Abdnor	Garn	Nunn
Andrews	Glenn	Packwood
Armstrong	Gorton	Percy
Bentsen	Grassley	Pressler
Boren	Hatch	Proxmire
Boschwitz	Hatfield	Roth
Bumpers	Hawkins	Rudman
Byrd, Harry F., Jr.	Havakawa	Schmitt
Cochran	Heflin	Simpson
Cohen	Helms	Stafford
D'Amato	Humphrey	Stennis
Danforth	Jepsen	Stevens
DeConcini	Johnston	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Durenberger	Mattingly	Warner
East	McClure	Weicker
Exon	Murkowski	Zorinsky
	Nickles	

NOT VOTING—6

Baker	Goldwater	Leahy
Dodd	Kassebaum	Moynihan

So Mr. KENNEDY's amendment (UP No. 659) was rejected.

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

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

The motion to lay on the table was agreed to.

REGARDING OIL AND GAS ON THE ARCTIC COASTAL PLAIN

Mr. JACKSON. Mr. President, I should like to clarify one aspect of this measure dealing with the U.S. Fish and Wildlife Service and the U.S. Geological Survey.

Language appears on page 10 of the joint statement of managers with regard to amendment 12 as follows:

Within available funds, the Service is . . . to provide $300,000 for the North Slope study for transfer to the Geological Survey. This will permit the Survey to discharge its duties as the lead agency in assessment of oil and gas exploration development and production on the Arctic Wildlife Refuge pursuant to Sec. 1002 of Public Law 96-487. There is no objection to initial development on new Alaskan refuges while the refuge management plans are being prepared.

From reading this language, one might conclude that section 1002 of the Alaska Lands Act, or the pertinent legislative history, directs that a particular agency within the Department of the Interior be designated as the "lead agency" for the purpose of carrying out the oil and gas exploration program on the coastal plain of the Arctic Wildlife Refuge.

This is not the case. We did not specifically address this issue in section 1002 nor, in my view, is there any clear legislative history directly on this point.

It is my understanding that Secretary Watt has directed that the lead agency for portions of the study be the USGS. It is also my understanding that this decision of the Secretary is currently being challenged in the courts. I would certainly not want any one to construe the action in this conference report as having any effect on that pending litigation. Nor should this language be construed as in anyway amending ANILCA or the Refuge Administration Act.

I am also concerned, Mr. President, that this language in the conference report and the statement of managers might be viewed by some as providing authority for oil and gas development and production in the Arctic Wildlife Range. This language certainly does not provide that authority, and I want to be sure my colleagues understand that.

Section 1003 of ANILCA is very clear on this point. Production, leasing, or other development leading to production of oil and gas from the Arctic Wildlife Refuge is prohibited unless specifically authorized by an act of Congress.

I am sure that the conferees on this measure did not contemplate overturning this statutory provision with this language in the statement of managers relative to the USGS' "assessment of oil and gas exploration, production and development." However, I thought I had better clarify this matter for the record.

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

Mr. JACKSON. I yield.

Mr. JOHNSTON. I appreciate the remarks of the Senator from Washington. Let me say that as the manager of this bill for the minority, I certainly never intended to include anything in the conference report or the statement of managers designed to make moot any court decision or affect the outcome of any pending litigation. Nor is anything in the report designed to modify or amend anything in the ANILCA or the Wildlife Refuge Administration Act.

Similarly, I agree with the Senator from Washington that this legislation in no way authorizes any oil and gas development or production in the Arctic Wildlife Refuge. That decision, as required by section 1003 of the ANILCA, will have to be made later by Congress. The legislation we are considering today does not constitute any type of congressional authorization in this regard.

I thank the Senator for bringing these matters to the attention of the Senate.

Mr. McCLURE. Mr. President, with regard to section 101(g) concerning activities provided for in the Department of Interior and Related Agencies Appropriation Act, 1982, I understand the phrase "if such act had been enacted into law" means the conference agreement on such act. Therefore funds would be made available to the strategic petroleum reserve off-budget account?

Mr. HATFIELD. Yes.

Mr. McCLURE. In addition, I understand that the funds made available for the acquisition and transportation of petroleum, and for other necessary purposes, would include all those purposes under section 167 of the Energy Policy and Conservation Act of 1975, as amended by the Omnibus Reconciliation Act of 1981. Is this correct?

Mr. HATFIELD. Yes.

ARSON

● Mr. GLENN. I would like to address the provision appearing on page 20 at line 7, which is a prohibition against a premature reorganization of the Bureau of Alcohol, Tobacco and Firearms without congressional oversight. I applaud my colleague from South Dakota, the chairman of the subcommittee, for including this provision in the continuing resolution. I might wish he had gone further, in fact.

I would ask my colleague if the prohibition is intended to encompass a proposal that would curtail or eliminate the arson law enforcement program of the Bureau of Alcohol, Tobacco and Firearms?

Mr. ABDNOR. The Senator from Ohio is correct. The arson law enforcement program is included in the prohibition against reorganization before March 15, 1982, or thereafter if disapproved by the House and Senate Committees on Appropriations.

Mr. GLENN. Is it the committee's intent that the arson law enforcement program be maintained and effectuated under the ultimate reorganization plan that is finally approved?

Mr. ABDNOR. That is correct.

Mr. GLENN. I thank the chairman of the subcommittee.●

THE COMMUNITY SERVICES BLOCK GRANT

● Mr. RUDMAN. Mr. President, some questions have arisen regarding the effect the continuing resolution would have on the community services block grant and the Secretary's discretionary fund which is tied to it. This requires some clarification in order to ensure that the Department of Health and Human Services has the required guidance.

The House version of the Labor-HHS appropriations bill appropriates $362,522,000 for the community services block grant and sets aside $32,630,000 of that amount for the Secretary's discretionary fund as authorized by section 681 of the Reconciliation Act.

The amount set aside is the maximum 9 percent authorized under section 681(b). Although the House did provide the maximum for the discretionary funds, given a $362.5 million appropriation for the block grant, I believe there are some serious problems with how the funds are distributed in the House report language specifically the fact that some important existing programs are not funded.

By contrast, the Senate appropriated $300 million for the block grant. No specific amount was set aside for the discertionary fund in the bill but, through report language, the Senate directed the Secretary of HHS to fund all vital ongoing programs including, by specific reference, the programs the House chose not to fund.

Under the continuing resolution, only $300 million, as appropriated by the Senate, would be available for the block grant. Yet, if the more restrictive House bill language, which designates $32.6 million for the discretionary fund, is followed, HHS would be violating the 9 percent ceiling in the authorizing statute.

It is my contention that HHS should resolve this conflict between the House appropriations bill language and the authorizing statute by spending 9 percent of $300 million, or $27 million, to maintain all ongoing programs under the discretionary fund, and further, that no program should bear a disproportionate cut. Does the Senator from New Mexico agree with this?

Mr. SCHMITT. Mr. President, I think the Senator from New Hampshire is correct. I appreciate his bringing this problem to my attention, and I would expect HHS to spend the money as is indicated here.

Mr. RUDMAN. I should add, at this point, that this matter has been discussed with Senator DENTON, the chairman of the authorizing subcommittee, and he agrees with this interpretation.●

● Mr. CHILES. Mr. President, I wish to take this opportunity to express concern with two growing trends in our congressional budget process that we witnessed in the process of considering this continuing resolution. Both of these trends, I believe, point to the further erosion of our normal committee process; they represent an erosion of our reputation as the greatest deliberative body in the Nation, and they represent an erosion of the power of the purse authorities given to the Congress by the Constitution.

The first matter of concern to me is the fact that this continuing resolution, as proposed by the committee, would be in effect for the entire fiscal year or until September 30, 1982. This eliminates all the normal pressures for the completion of our process of marking up and passing each of our 13 appropriations bills. The rush of amendments that I witnessed yesterday in the full committee markup of this resolution, and the large

number of amendments that have been called up and debated on the floor today are motivated by the fear and growing conviction that we will not pass our regular bills, and this is the last chance to catch the train.

Yesterday in the committee, Senator STENNIS, who has the great prospective of history after 34 years of service in the Congress, gave us a history lesson on the continuing resolution. I believe some of that bears repeating here today. Senator STENNIS reminded us that the continuing resolution is a device that was invented shortly after the Second World War. It was intended to be a short-term stop-gap measure for only a matter of days to bridge the gap between when 1 fiscal year ended and when one of the regular appropriation bills could be passed. The continuing resolutions were in short-term measures. They were for only one or two bills. This process has now changed to the point where this continuing resolution is for the entire year and covers all 13 major appropriations bills.

While I agree that there is no real alternative at this point, it seems to me that a preferable approach would be to make the continuing resolution apply only for 1 month or until December 18, 1981. This would be an adequate time to permit us to complete the regular bills. Without such a deadline confronting us and goading us to action, I believe that many or most of the regular bills will not be completed. If this were to come to pass, I believe it would be an undesirable short cut that erodes the function and expertise of our Appropriation Subcommittees. It also erodes the normal committee process and institution of the Congress by presenting us from working our will on these matters.

Mr. President, the other matter that is of concern to me is the growing trend to offer across-the-board cuts to these spending measures. If our appropriations bills are too high, as I believe many of them are, we need to reduce them in a surgical way that relies on the expertise of the committee. I am relatively sure that because this resolution provides funding levels that are too high as compared to the President's September proposals that it will be vetoed by the President. When that happens the pressures will only mount to provide across-the-board reductions to appropriated funds, as well as to entitlement programs.

My opposition to across-the-board cuts and Presidential impoundment powers is not just a matter of protesting congressional prerogatives. I believe that the people of Florida expect me to be accountable for my votes on policy issues which affect their lives. As the events of this year point up, budget issues are vital to the American people.

Across-the-board cuts let Members avoid standing up and being counted on which programs to cut and which to fund. In a similar way, giving the President impoundment powers lets Members vote for any high level of spending, and count on the President to exert fiscal responsibility. In the long term, letting Members of Congress avoid those tough choices is going to produce higher levels of spending.

I also want to address the issue of letting the President modify or reduce spending for "entitlement" programs. While I believe that we must look for ways to get better control of entitlements, a wide open grant of legislative authority to the Executive is not the way to do it.

No one of us has a monopoly on wisdom. The Constitution lets the President propose legislative changes. But only Congress can enact the changes. The congressional process provides for public hearings, where individual citizens and their representative groups can present their views and offer advice.

Equally important, 535 Members of Congress go home to their States and districts during the process. They get to hear what people say about the issues giving the executive branch power to modify the provisions of law goes far beyond letting the President carry out his economic program. In only a few major areas, like social security or the B–1 bomber does the elected President actually make these decisions. In most of the detailed provisions, the changes will be made by bureaucrats, who are elected by no one, and who do not have to speak to ordinary citizens about the effect of their proposals.

Mr. President, I have taken the time to point these matters out because of their importance to the Senate and the Congress as an institution. We must avoid continuing resolutions of such a massive nature in the future as they represent a shortcut approach which only erodes our responsibilities in the Congress.●

OFFICE OF INSPECTOR GENERAL AT THE DEPARTMENT OF THE TREASURY

● Mr. CHILES. Mr. President, section 110 of the continuing resolution before the Members today gives the Secretary of the Treasury Department 2-percent transfer authority. This will permit the Secretary of the Treasury Department, with the approval of the House and Senate Committees on Appropriations, to transfer up to 2 percent away from any appropriation account provided that no recipient account is enriched by more than 2 percent.

Senator ABDNOR, chairman of the Treasury, Postal Service and General Government Subcommittee was successful yesterday in committee in this amendment, and I rise to compliment him on his foresight in this matter.

Last year when I chaired this subcommittee, I recommended a similar measure, and I believe Senator ABDNOR's proposal has considerable merit. It will give the Department greater flexibility to manage their programs and to meet unexpected contingencies.

Also, in view of the rigid fiscal restraints placed on the Department under the revised fiscal year 1982 budget, the committee felt that this transfer authority was essential to allow the Secretary to sustain his critical Treasury functions. It should also reduce the need for the Department to seek supplemental appropriations with the occurrence of every contingency and unexpected event. It can also be used to enhance activities that will raise additional revenues or help eliminate waste. For example, I believe that this transfer authority can and should be used by the Department to help create a more credible Inspector General operation.

Mr. President, the Department of the Treasury now has a small Inspector General function included within the Office of the Secretary. This small office has fewer than 15 professional investigators and auditors and does not have statutory independence as do other Inspector Generals in the executive branch; it does not have subpena powers and it is also not required to report to the Congress on its activities as are the statutory Inspector General offices.

Currently, the Department relies on the auditors and investigators in each of the independent agencies to investigate allegations of their own wrong doing. While the small Inspector General activity in the Office of the Secretary tries to provide oversight to these activities, it is too small to have any real leverage. It is also not independent from top management in the Department.

Last year, the Appropriations Committee recommended to the full Senate the transfer of 200 positions and $7.5 million from the various Treasury agencies and departments to create a new Office of Inspector General.

Mr. President, I ask unanimous consent to have a table printed at this point in the RECORD which shows the transfers that were recommended last year. These transfers would have been achieved by moving approximately 15 percent of the auditor and inspector resources that now exist in each of the independent agencies to a central office. This would have left each of Treasury bureaus and agencies with adequate resources to also conduct their own internal investigations.

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

Office/Bureau	Offsets	
	Positions	Amount
Office of the Secretary	22	$882,000
Bureau of Government Financial Operations	3	115,000
Bureau of Alcohol, Tobacco and Firearms	5	193,600
U.S. Customs Service	30	1,163,700
Bureau of the Mint	1	28,000
Bureau of Public Debt	2	71,000
Internal Revenue Service	134	4,976,500
U.S. Secret Service	3	115,000
Total	200	7,544,800

Mr. CHILES. Mr. President, last year we also recommended that this new Inspector General office be included as a separate appropriation account; that it be given subpena powers; and that it be required to comply with the reporting requirements of section 5 of Public Law 95–452, the Inspector General law of 1978. As the Members may recall, the Treasury bill never came to the Senate floor last year and, therefore, the full Senate was never given a chance to vote on those particular recommendations.

This year the House has passed H.R. 2098 to create a statutory Inspector General at Treasury. This legislation is now

pending in the Senate Committee on Governmental Affairs. I am hopeful that this legislation will be passed into law and the Department will move quickly with this transfer activity to create a more credible Inspector General operation.

I ask Senator ABDNOR if he believes that the transfer authority he has recommended could be used by the Department to help provide an expanded Inspector General function at the Department without waiting a full additional year for the fiscal year 1983 appropriations process?

Mr. ABDNOR. Yes. Mr. President, I believe that is an example of the kind of flexibility that this transfer authority will give the Department. I would also add that our traditional prerogatives in the Appropriations Committee, as well as those of the authorizing committees, will be protected as these transfers cannot be made without the approval of the House and Senate Committees on Appropriations.

Mr. CHILES. I appreciate the Senator's response, Mr. President. We have heard considerable discussion by this administration and previous administrations, and in fact from this Senator as well, that we need to aggressively eliminate fraud, waste, and abuse to reduce Government spending. I think it is fair to say that many of us expect the Department to use this authority to recommend improvements in the Inspector General function at the Department.●

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

HUD APPROPRIATIONS REVISIONS

● Mr. LEAHY. Mr. President, when the Appropriations Committee considered the continuing resolution, Senator EAGLETON offered an amendment on my behalf to restore the funds for the Environmental Protection Agency (EPA) which the administration proposed to cut in its September round of budget cuts.

These cuts in EPA's budget—$140 million—went far beyond the savings that can be achieved through increased efficiency or elimination of waste and fraud. Combined with the large budget reductions proposed for the Agency in March, the administration's September proposal cut EPA's budget by 30 percent this year and by 50 percent in 1983.

These severe cuts would effectively repeal the public health and environmental legislation enacted over the last decade. The administration's plan would reduce the EPA to roughly half its present size—this despite the fact that Congress has acted to expand the authorities of the Agency in recent years, especially in the area of cancer-causing toxic substances.

We must not permit the administration, through budget cuts, to weaken the EPA and effectively repeal the laws which protect the public health and economic strength of the Nation.

I strongly object to the fact that the committee has accepted these cuts in EPA's budget without receiving any justification for $70 million of the $127 million in cuts.

The justification the Committee has received for the $13.4 million cut in research and development read like a press release, not a budget document. We have received a budget justification for the cuts in abatement, control and compliance element of EPA's budget. The description of the cuts was so damaging that the subcommittee chairman was constrained to reject a quarter of the pollution abatement cuts.

In spite of these additions, the remaining cuts severely damaged EPA's ability to protect the public against cancer-causing toxic chemicals.

Let me quote briefly from the pollution abatement budget justifications. These quotes show the severe impact of these cuts:

AIR POLLUTION

Fewer standards for hazardous air pollutants.

Curtailment of hazardous pollutant screening studies.

Result in an ad hoc approach to the gathering of (pollution) data—with a resultant loss in timeliness—and data verification/quality assurance.

WATER POLLUTION

Delay in identifying toxic pollutants.

Cut by 25 percent contract support for oil spill cleanup activities.

Cut inspections of construction grants for sewage treatment plants which would reduce the emphasis on quality of construction work.

HAZARDOUS WASTE MANAGEMENT

A significant loss of contract funds for Hazardous Waste Management in the Regions; decreased inspection of generators and transporters of hazardous wastes.

TOXIC SUBSTANCES

The $8 million cut in testing and evaluation will eliminate a substantial part of the program—to more accurately and economically predict human health effects—of chemicals.

Mr. President, if the citizens of this country realized that these budget cuts meant more cancer and disease in their families, I am sure they would reject these cuts. But these cuts are justified as a budget-balancing measure. But even if my entire original amendment were adopted—a $140 million add-on—it would affect the Federal deficit next year by only three-tenths of 1 percent.

These cuts have nothing to do with budget savings. They are, instead, an effort to repeal a decade of environmental and public health legislation. In committee. positive steps were taken. But I want to make clear to my colleagues that I will vigorously oppose further attempts to destroy the effectivenes of this agency.

THE B–1 BOMBER

Mr. President, for many years I have been opposed to the building of the B–1 bomber. I have opposed the building of this bomber because I am convinced that this single program will drain away such a large portion of the Federal budget that other essential defense and domestic needs will not be met.

Because of my concern about the B–1's cost, I asked the Congressional Budget Office to prepare an assessment of the real cost of this program.

I submit for the RECORD a copy of Director Rivlin's statement at this point.

The statement follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 6, 1981.

Senator PATRICK J. LEAHY,
Senate Appropriations Committee,
Russell Senate Office Building.

DEAR SENATOR LEAHY: In response to your request the Congressional Budget Office (CBO) has reviewed the investment (procurement and research development) costs of the B–1 bomber and assessed the impact of potential inflation on the program. Our estimate includes the total acquisition costs of the baseline bomber; the four major additional items that the Air Force has requested the contractor to examine; and, as you requested, the items GAO has indicated should also be included in the cost of the B–1.

The baseline costs of the 100 bomber program as provided by the Air Force are, $19.7 billion (in constant 1981 dollars). In addition, the Air Force requested the prime contractor to examine four major items that may be included in the final contract. These four items are rear bomb bay enlargement, permissive action link/command disable system, air-launch cruise missile (ALCM) carriage, and ALCM avionics. The Air Force estimates that these additions to the program would cost $1 billion (in constant 1981 dollars).

As you requested, we have also analyzed the major investment items that the General Accounting Office (GAO) has indicated should be included in any cost estimates on the B–1. The GAO identified these items under three broad classifications: (a) questionable reductions, (b) expenses in other program elements, and (c) potential additions. These items are shown in Attachment 1. The identified cost for all GAO items is $5.5 billion (in constant 1981 dollars). For several of these items, including operational and electromagnetic pulse testing, conventional weapons certification, a fuel tank inerting system, low and very low frequency communications, and improvements to offensive and defensive systems—the GAO was unable to obtain basic cost estimates. We have, therefore, not included estimates for these items in this assessment. Also, in estimating contractor support and nuclear weapons certification, the GAO anticipated a range of $1 billion to $2.8 billion; in this assessment we have used the mid-point of the GAO range for these two items.

After applying CBO's inflation rate assumptions to the full range of program costs discussed above, we estimate that B–1 investment costs will be $39.8 billion in then-year, or budget, dollars. With the Administration's inflation rate assumptions, the comparable cost would be $35.4 billion.

Attachments 2 through 5 provide year-by-year estimates of budget authority, using both CBO and Administration economic assumptions, for the baseline bomber (Attachment 2), the four options for which the Air Force requested contractor proposals (Attachment 3), the various items the GAO has indicated as being appropriate for any B–1 cost estimate (Attachment 4), and a summary of the total program costs (Attachment 5). Attachment 6 provides a year-by-year comparison of estimated budget authority and outlays for the total program.

These estimates, it should be noted, are for investment costs only; they are not life-cycle costs. They do not reflect the costs of operating the B–1 once it is in the Air Force inventory. Nor do they reflect the possible costs of other weapon systems to enhance the capability of the B–1 such as a new short range attack missile or a new tanker for aerial refueling.

I am sending an identical letter to Senator Proxmire and a copy to Chairman Hatfield. If your staff should have any questions concerning these estimates or the attachments they can contact Mr. Patrick Renehan of our Defense Cost Unit at 226–2840.

Sincerely,

ALICE M. RIVLIN,
Director.

ATTACHMENT 1: ADDITIONAL ITEMS IDENTIFIED BY GAO (In millions of constant 1981 dollars)

SUBJECT	COST
Questionable Reductions:	
Engineering change order budget	440
Change in avionics learning curve	100
Change in airframe learning curve	500
Reduction in avionics production estimate	86
Consideration for multiyear procurement	800
Transfer of engine component engineering development to component improvement account	40
Deferral of air vehicle depot support development	300
Expenses in other program elements:	
Operational test and evaluation	No Estimate
Engine component improvement program	115
Conventional weapons certification	No Estimate
Interim contractor support	500-2,000
Production facilities improvement	71
Manufacturing technology enhancement	170
Base facility improvement	173
Nuclear weapons certification	500-750
Potential Additions:	
Second inertial navigation system	220
Forward looking infrared sensor	125
Simulator development and procurement	337
Full scale fuselage fatigue testing	140
Fuel tank inerting system	No Estimate
Electro-magnetic pulse testing	No Estimate
Low frequency/very low frequency communications	No Estimate
Hardware, testing, electronics and support for additional weapons	No Estimate
Future improvements to avionics	No Estimate

ATTACHMENT 2. COMPARISON OF ADMINISTRATION AND CBO BASELINE B-1 COSTS (Budget authority by fiscal year, in millions of dollars)

	1981	1982	1983	1984	1985	1986	TOTAL a/
Development							
Constant 1981 dollars	210	670	620	460	430	40	2,430
Administration then-year dollars	218	750	741	583	573	56	2,921
CBO then-year dollars	218	762	761	608	609	61	3,017
Procurement b/							
Constant 1981 dollars	0	1,300	2,580	4,370	4,800	4,240	17,290
Administration then-year dollars	0	1,565	3,290	5,860	6,744	6,229	23,688
CBO then-year dollars	0	1,639	3,544	6,524	7,777	7,454	26,937
Total a/							
Constant 1981 dollars	210	1,970	3,200	4,830	5,230	4,280	19,720
Administration then-year dollars	218	2,316	4,030	6,443	7,317	6,285	26,609
CBO then-year dollars	218	2,401	4,305	7,131	8,386	7,514	29,955

a/ Numbers may not add to totals because of rounding.
b/ These procurement funds support a buy of 2 aircraft in 1982, 7 in 1983, 9 in 1984, 36 in 1985 and 46 in 1986.

ATTACHMENT 3. COMPARISON OF ADMINISTRATION AND CBO B-1 OPTION COSTS (Budget authority by fiscal year, in millions of dollars)

	1981	1982	1983	1984	1985	1986	Total a/
Rear Bay Enlargement							
Constant 1981 dollars	0	53	68	39	11	4	173
Administration then-year dollars	0	60	84	51	15	5	215
CBO then-year dollars	0	61	89	57	17	6	230
Permissive Action Link/Command Disable System							
Constant 1981 dollars	0	39	33	15	46	54	187
Administration then-year dollars	0	45	41	20	65	79	249
CBO then-year dollars	0	46	43	22	75	95	281
ALCM Carriage:							
Constant 1981 dollars	0	130	261	182	51	16	640
Administration then-year dollars	0	149	329	244	72	23	816
CBO then-year dollars	0	153	351	270	82	28	885
ALCM Avionics							
Constant 1981 dollars	0	6	10	8	2	1	26
Administration then-year dollars	0	6	13	10	3	1	32
CBO then-year dollars	0	7	14	11	3	1	35
Total a/							
Constant 1981 dollars	0	228	372	243	110	74	1,026
Administration then-year dollars	0	260	466	325	154	109	1,313
CBO then-year dollars	0	266	497	361	177	130	1,430

a/ Numbers may not add to totals because of rounding.

ATTACHMENT 4. COMPARISON OF GAO IDENTIFIED COSTS (Budget Authority by fiscal year, in millions of dollars)

	1981	1982	1983	1984	1985	1986	Total a/
Questionable Reductions							
Constant 1981 dollars	0	245	395	576	585	465	2,266
Administration then-year dollars	0	287	496	767	817	683	3,050
CBO then-year dollars	0	297	529	846	935	817	3,423
Expenses in Other Program Elements							
Constant 1981 dollars	17	106	101	163	942	1,074	2,403
Administration then-year dollars	19	128	128	219	1,308	1,549	3,351
CBO then-year dollars	19	134	138	244	1,481	1,790	3,806
Potential Additions							
Constant 1981 dollars	0	109	153	198	206	156	822
Administration then-year dollars	0	126	191	263	287	229	1,096
CBO then-year dollars	0	130	203	289	328	274	1,223
Total a/							
Constant 1981 dollars	17	460	649	937	1,733	1,695	5,491
Administration then-year dollars	19	541	816	1,248	2,412	2,461	7,497
CBO then-year dollars	19	560	870	1,379	2,743	2,880	8,452

a/ Numbers may not add to totals because of rounding.

ATTACHMENT 5: COMPARISON OF TOTAL B-1 ACQUISITION COSTS (Budget authority by fiscal year, in millions of dollars)

	1981	1982	1983	1984	1985	1986	TOTAL a/
Baseline B-1							
Constant 1981 dollars	210	1,970	3,200	4,830	5,230	4,280	19,720
Administration then-year dollars	218	2,316	4,030	6,443	7,317	6,285	26,609
CBO then-year dollars	218	2,401	4,305	7,131	8,386	7,514	29,955
Four Options							
Constant 1981 dollars	0	228	372	243	110	74	1,026
Administration then-year dollars	0	260	466	325	154	109	1,313
CBO then-year dollars	0	266	497	361	177	130	1,430
GAO							
Constant 1981 dollars	17	460	649	937	1,733	1,695	5,491
Administration then-year dollars	19	541	816	1,248	2,412	2,461	7,497
CBO then-year dollars	19	560	870	1,379	2,743	2,880	8,452
Total a/							
Constant 1981 dollars	227	2,658	4,220	6,010	7,073	6,049	26,237
Administration then-year dollars	237	3,116	5,312	8,016	9,883	8,854	35,419
CBO then-year dollars	237	3,228	5,672	8,870	11,306	10,524	39,837

a/ Numbers may not add to totals because of rounding.

ATTACHMENT 6. COMPARISON OF TOTAL B-1 ACQUISITION COSTS (Budget authority and Outlays by fiscal year, in millions of dollars)

	1981		1982		1983		1984		1985		1986		TOTAL	
	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O	BA	O
Constant 81 dollars	227	128	2,658	840	4,220	1,925	6,010	3,319	7,073	5,057	6,049	6,141	26,237	17,410
Administration then year dollars	237	133	3,116	950	5,312	2,309	8,016	4,191	9,884	6,699	8,854	8,472	35,419	22,754
CBO then year dollars	237	133	3,228	970	5,672	2,407	8,870	4,485	11,306	7,374	10,524	9,610	39,837	24,979

Mr. LEAHY. Mr. President, these new estimates of the cost of the B–1 bomber show that this weapon system will be twice as expensive as the Air Force estimated just 4 months ago. Our national budget cannot afford this enormous cost, and our national security will not be improved by a penetrating bomber that cannot penetrate.

In the mid-1980s, when our budget problems are most severe, the costs of this aircraft will be at their zenith. These huge costs will force higher budget deficits—and take money away from more effective strategic programs. These very large B–1 expenditures will reduce our military strength because fewer funds will be available for military readiness or for the Stealth bomber which is widely agreed to be a superior aircraft.

Cost estimates of the B–1 have increased so dramatically because original estimates were based on unrealistically optimistic economic assumptions and did not include all the required equipment and design changes. Unfortunately, we cannot pay for the B–1 with last year's dollars or build it without full equipment.

The B–1 bomber will be obsolete before it is deployed. I do not believe we can afford a $40 billion flying Edsel.

MATERNAL AND CHILD HEALTH AMENDMENT

Mr. President, I am pleased to cosponsor Senator BUMPERS' amendment to provide funding for maternal and child health programs, including screening and immunizations, diagnostic testing for genetic disorders and handicapping conditions in young chilren, and adolescent pregnancy services.

A story is told of a couple who went to an orphanage to adopt two children. The matron of the orphanage first brought out the most beautiful children for the couple to meet. And the couple was displeased. Then she brought out the most talented of the children to the future parents. And they were displeased. Finally, she brought out the most intelligent of the children. The couple rose to leave and explained, "you have misunderstood, we want the ones no one else will have."

The children served by these maternal and child health programs are often the ones that no one else will have. They are handicapped, abused, neglected. Their mothers are often poor, but do not qualify for medicaid. They fall between the cracks and crevices of eligibility for many Federal and State programs. The funds provided under these maternal and child health programs are

often their only source of assistance. This Congress, in adopting Senator BUMPERS' amendment, would be exhibiting both compassion and commonsense.

A further reduction in funds for maternal and child health services would be contrary to the administration's goal of protecting the truly needy in our society. A further reduction in funds for these programs would be contrary to our goal of containing health and social welfare costs. The State of Alabama reports that for every $1 spent on maternal and child health services, the State saves from $5 to $10 in costs that would otherwise have occurred from a lack of access to prenatal and primary health care.

The State of Mississippi reports that it costs $1,100 to provide complete prenatal care to a pregnant woman, while it costs the State $20,000 a year to provide institutional services to a child born with handicapping conditions because his mother did not receive the necessary care. These maternal and child health programs have enabled over 1 million children to receive immunizations and other basic health services. Three million children receive services for serious genetic disorders, hemophilia, and sudden infant death syndrome. Over 1 million mothers receive prenatal and delivery services under these programs. Still, many more mothers and children are unable to receive the help they need.

Even at the level of funds Senator BUMPERS is recommending, maternal and child health programs face a dramatic reduction from the fiscal 1981 level of $457 million. The efforts in my own State of Vermont to provide essential health services to mothers and children will suffer dramatically if Senator BUMPERS' amendment is not approved. Many of our public health offices would be closed, there would be a sharp decrease in prenatal classes, immunizations and well child clinics. Our child development clinic, the only facility in the State for the diagnosis of mental retardation in very young children would be closed.

Mr. President, I believe that a society which expects its citizens to do all they can for their country when they are well is a society which should do all it can for its citizens when they are ill. I urge all of my colleagues to support Senator BUMPERS' amendment.

FUNDING FOR VOCATIONAL REHABILITATION AND SPECIAL EDUCATION PROGRAMS

Mr. President, many years ago, lepers were cast aside, kept in a hiding place of secrecy and sorrow. If they left their place, they were forced to wear a bell around their necks to warn others to flee. For them, the bell tolled, "Leper, leper, leper."

Not so many years ago children and adults, disabled, disfigured or disturbed were also isolated, kept away from the public's eye. They did not attend our schools. They did not work in our stores. They did not belong to our society. And when they happened to be seen, it was as though they wore a bell which tolled, "Cripple, cripple, cripple."

In time, we came to learn that the bells which tolled for the Nation's disadvantaged tolled also for us. In time, our attitudes and our laws changed. Strong efforts were made to correct past injustices.

The greatest efforts have been made in the past decade when the Congress enacted landmark legislation to allow handicapped children and adults to participate fully in our society. In 1973, the Congress approved the Vocational Rehabilitation Act which affirmed the rights of handicapped citizens to fair employment. This law has enabled many handicapped Americans to obtain the guidance, training, and services necessary to lead more independent and productive lives.

Congress also approved the Education for All Handicapped Children Act, Public Law 94–142, which required the States to provide a "free appropriate public education" to all handicapped children. In 1980, 4 million children were educated in our public schools or in the least restrictive setting possible.

These laws have helped many handicapped Americans, but there are as many who are still in need of assistance. For every child who has been helped by Public Law 94–142, there is another who has not. For every handicapped adult who has been placed in a productive job, there are still others waiting for employment assistance.

These laws stand as promissory notes to a Nation's handicapped children and adults. The failure of the Congress to approve an adequate level of funding for special education and rehabilitation services will send a clear signal to them that we are prepared to retreat from the extended promise of equal educational and employment opportunity.

There are many reasons to support Senator WEICKER's amendments to restore funds to special education and vocational rehabilitation programs. First, these programs serve the most truly needy in our society, children and adults who are blind, hearing-impaired, developmentally disabled, wheelchair bound. If this administration and this Congress do not consider these citizens truly needy and worthy of special attention, then the "social safety net" is moored in sand. Second, these programs, according to numerous Federal and private studies, are effective in achieving their stated goals. Third, by educating and training handicapped individuals, we are saving Federal, State, and local expenditures for public assistance and institutional care.

For every $1 spent by the Federal Government on vocational rehabilitation, another $8 are saved in costs for medicaid alone. For every dollar spent on the early education of handicapped children, vast amounts are saved in social welfare costs. Finally, the States and local school districts are already paying the largest share of the cost of educating and training disabled Americans. For example, the States spent $5 billion on the education of handicapped children in 1980. The Federal Government contributed only a small fraction of the total cost. In fact, the Congress has never appropriated more than 12 percent of the cost of educating handicapped children.

Senator WEICKER's amendment would allow us to continue special education and vocational rehabilitation services at last year's level. They would allow us to continue to pay about 11 percent of the cost of educating handicapped children. The level of funding sought is that which was approved under the Reconciliation Act of 1981.

Mr. President, there are those who will say that we cannot afford to continue these programs at the current level given the condition of the economy. I believe that we cannot afford not to increase funding for special education and vocational rehabilitation programs. We cannot afford to know the price of everything while considering the value of nothing.

In budget actions taken this past year, we have for our handicapped citizens already deferred too many dreams, rescinded too many hopes, and we cannot reconcile a lessening of the goals we have set forth under the Education for All Handicapped Children and Vocational Rehabilitation Acts. I strongly urge all of my colleagues to support Senator WEICKER's amendments.

LOW-INCOME ENERGY ASSISTANCE PROGRAM

Mr. President, I should like to express my total support for this amendment to provide additional funds for low-income energy assistance. The only opposition I would raise is that this amendment is still far from adequate to meet the proven need. Low-income energy assistance is one of the most basic—and most underfunded—of the so-called safety net.

I have argued for this program for the last 2 years, and each year the statistics become more grim. Over half the Vermonters eligible for fuel assistance have an income of less than $6,000 per year. These people live in the oldest and most poorly insulated housing. They have switched to cheaper forms of energy—although now even wood is expensive—and have turned down their thermostats to a point where their health is often affected.

Mr. President, it seems as if every year we debate the issue of energy assistance well after the time when these funds should be on their way to those in need. Vermont has been hit with the first of many snowfalls, and below-freezing temperatures are already the norm. Yet my State still does not know how much it will finally receive for energy assistance. What promises to be a long, cold winter has already begun, and thousands of Vermonters are living in fear that there may not be enough fuel assistance funds to go around. Relief is not in sight as far as they are concerned.

The funding we are seeking today will partially restore what is really needed. I urge my colleagues to support this amendment.

HUD APPROPRIATIONS REVISIONS

Mr. President, I should like to express my disapproval of the Appropriations Committee's action yesterday to further reduce funding levels for the urban development action grant (UDAG) and community development block grant (CDBG) programs. I did not endorse the committee's decision to reduce UDAG funding by a full 12 percent from $500 million to $440 million for fiscal year 1982. Although I supported the committee's rejection of an earlier proposal by

the administration to slash CDBG funding by 12 percent or $448 million, I did not support the 6-percent or $224 million cut from what the House and Senate committees had approved.

Cities throughout my home State of Vermont have undertaken major projects over the past several years to step up efforts to save once-dying city centers. Almost every community in the State with a population over 3,000 is involved to some extent in upgrading their downtown areas. Federal programs such as UDAG and CDBG, combined with the dedicated efforts of community and business leaders, have played a major role in this successful revitalization.

Due to the cuts endorsed by the Appropriations Committee yesterday, UDAG funds, which have been used in economically beleaguered Vermont communities to stimulate joint public/private development projects, have been reduced so significantly that many promising projects in my State will have to be abandoned. The cuts in the CDBG program will mean that only about $1.6 million will be available to fund new projects in Vermont in fiscal year 1982. Considering that the average CDBG grant in Vermont is approximately $300,000, this means that as few as 5 of Vermont's 251 communities can expect to participate in the CDBG program in fiscal year 1982.

Earlier this year, I expressed my concern that under the guise of "New Federalism" the States would be handed the burden of administering the CDBG small cities program without the support of adequate Federal funds. Unfortunately, this latest round of budget cuts confirms my fears. I am not surprised that many States are now reconsidering their decision to take over the small cities program in fiscal year 1982. In fact, the latest indications are that as many as half of the States will decline to take over the small cities program this year.●

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1982—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on H.R. 4522, which the clerk will now report.

Mr. SCHMITT. Mr. President, I ask unanimous consent to vitiate that order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The previous order is vitiated.

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 7:10 p.m. in which Senators may speak.

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

SENATOR WILLIAM COHEN

Mr. RUDMAN. Mr. President, in the Bangor Daily News, there appeared a column by John Day about our colleague and my friend, Senator WILLIAM COHEN of the State of Maine. It is a very searching and sensitive column devoted to the agonies that many of us go through on a vote such as the AWACS vote.

I ask unanimous consent that a copy of this column be printed in the RECORD.

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

FAMILY POLITICS

(By John Day)

WASHINGTON.—Andy Warhol, an artistic figure of little substance, once said, "The day will come when everyone will be famous for 15 minutes."

Reuben Cohen is such a man. Like Ed Muskie's sainted father, "the immigrant Polish tailor," and Joe Brennan's worthy male parent, "the Munjoy Hill dockworker," Reuben Cohen bursts into national prominence each time his son, Sen. William S. Cohen, confronts a major crossroads in his political career, and then fades back into obscurity the following day.

The media, for reasons that have little scientific validity, have always subscribed to the theory that the actions of political sons are unfailingly rooted to their ethnic fathers. Therefore, when Cohen changed his vote Wednesday in favor of the AWACS sale to Saudi Arabia, turning the tide on that because, as the media pointed out, Cohen was the "son of a Jewish baker . . . the son of a Jewish bagel-maker . . . (even) the son of a Jewish bagle-factory owner."

The size of Reuben Cohen's bakery and his daily production of bagels always increases in a direct proportion to the reporter's ignorance of Maine politics. Wednesday afternoon, a few minutes after the speech which announced his change of position on AWACS, Cohen was swarmed around by reporters who asked such questions as "Does your father agree with this . . . did you talk to your father about this . . . (and) are you Jewish?"

Cohen was one of four senators, all of them original cosponsors of the resolution seeking to block AWACS, who switched at the last minute to give President Reagan his first major foreign policy victory. Two were freshman Republicans, Slade Gorton of Washington and Mark Andrews of North Dakota, regarded as likely targets to cave in to pressure from the While House. The other was Democrat Edward Zorinsky. Most of the heat fell on Cohen's shoulders, because he was the "son of a Jewish baker."

Which brings us to one of those gray areas that are rarely discussed in print, the subtle backlash that follows a politician who falls between the cracks of the media's pat, ethnic stereotypes. There was no mention Wednesday that Cohen is also the son of a proud, independent Irish woman. Her name is Clara Hartley Cohen. In Cohen's book, "Roll Call," the senator credited her with having as great an influence on his life as his father, who is rapidly becoming this country's most famous Jewish baker.

There are shades of discrimination in the world. Every politician with a Jewish name in America has run up against anti-Semitism. Cohen still talks about the hate mail he received from right-wing conservatives in 1973 following his vote in favor of Richard Nixon's impeachment while a member of the House Judiciary Committee.

The blatant stuff is easy to deal with. More difficult is the subtle, reverse discrimination which the Maine senator often runs up against in the Washington power circles. It showed up Wednesday during the cross-examination of Cohen on his AWACS vote. Bob Kaiser of the Washington Post, sometimes regarded as Ben Bradlee's successor, positioned himself directly in front of Cohen and announced to other reporters that he was going to tear into the Maine senator. Mary McGrory, the Post's liberal columnist, devoted a substantial portion of her column the next day to chastizing Cohen for "capitulating" to Reagan for reasons he "miserably" explained on the Senate floor. David Rogers, the Boston Globe's Capitol Hill reporter, suggested that Cohen cowardly sneaked out of the Senate chamber to avoid debate questions from Sen. Joseph Biden.

You could argue the intellectual disdain some journalists hold for Cohen stems from the senator's style, or his actions. You also could be cynical, and ascribe some of it to a subtle sort of reverse discrimination. Cohen, to many people down here, is the senator with a Jewish name who goes to a Protestant church. I've heard one of CBS's White House correspondents refer to Cohen, in the company of his peers, as being "the Unitarian Jew" in the same manner that Muskie is alleged to have slurred Franco-Americans by calling them "Canucks."

The relish with which some Washington journalists, many of them Jewish themselves, panned Cohen's two books was a sight to behold. He's not the worlds greatest politician-writer. I doubt he's as bad as the reviews in the Post and Star.

Cohen rarely talks about the complicated personal drives which took him from Bangor's impoverished York-Hancock Street to the U.S. Senate. He complained to me once of the obsession reporters have for "trying to get inside my mind to see what makes me tick." Cohen wants to be judged by his deeds, not his hangups.

In his book, Roll Call, the senator provides the answers to most of the questions people raise about his mixed heritage. He makes a clean breast of it.

Cohen wrote about the conflict between his mother and father over whether he would be brought up Jewish or Protestant. Encouraged by his father, Cohen said, " I decided at a very early age that I would be an athlete," and began skipping Saturday classes at Bangor's Hebrew School for afternoon basketball games at the YMCA.

"My split heritage of having an Irish mother and a Jewish father precluded me from ever being considered or accepted as a Jew, so I rationalized away the need to attend Saturday services. My absence upset some of my classmates, because it spoiled any chance for a perfect class attendance record and the prize that went with it," the senator wrote.

He continued, "Had my mother converted to Judaism perhaps things would have turned out differently for me, but she remained a woman of fierce independence and iron will against all the social pressures for conformity.

"I found it difficult to carry the name of Cohen and the label of Jew during the time when bigotry was rather rampant in rural Maine . . . One of my more vivid recollections is the time I was pitching in a Little League game in a small town . . . an angry, red-faced man hurled a beer can at me, yelling 'Send the Jew boy home!'

"I was only 12 at the time, and I can remember thinking, But you don't understand: I'm not . . ."

The conflict of religions came to a head. "I had no need to resolve the confusion that existed in my mind at the time, but I could not drift forever in a fuzzy world of religious nonalignment. When it came time for me to be Bar Mitzvah'd and celebrate my admission into the ranks of responsibility, I discovered that I first would have to participate in a special religious conversion ceremony. I ran to my father with tears in my eyes. 'Dad, I'm not going to do it.' He responded, 'Billy, you don't have to.'

"I knew that my mother had talked to him. She had always remained indifferent to the social pressure that called for her to change her views or conduct in order to please others. Any measure of independence

that I have today, I attribute to her example of self-esteem and self-confidence," the senator wrote.

Cohen said he was angry and the pressures which were being placed upon him because of different heritages of his parents.

He concluded:

"It was a lesson that has stayed with me for a lifetime. The Jewish community could not carve out an exception to its faith and laws just to accommodate me. I chose exclusion from the Jewish faith rather than accept the terms of confirmation. Snapping the bonds of conformity carried with it a price tag. . . . Exclusion meant freedom from conformity, but it also meant a lack of security and identity. . . . It meant that I could not expect to take refuge behind a common wall of numbers against the inevitable insults and assaults of future years."

I have no way of judging whether Cohen really believed his change of vote is in Israel's best interests, as he says, or he merely "capitulated" to Ronald Reagan, which is McGrory's thesis. I do know his decision was not the easy way out, and it came after some very deep soul searching. Reporters who judge him spend too much time focusing on the senator's Jewish father, and not enough attention to his mother and the other forces that moulded him.

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. McCLURE. Mr. President, tomorrow the Senate will consider Senate Joint Resolution 115, to approve the President's recommendation for a waiver of law for the Alaska natural gas transportation system.

Today I received a joint letter from Secretary of State Alexander M. Haig, Jr., and Secretary of Energy James B. Edwards reiterating the critical importance of the project to the energy security of this country and strongly urging support for this important national energy project.

I ask unanimous consent that their letter be printed in the RECORD for the information of my fellow Members.

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

THE SECRETARY OF ENERGY,
Washington, D.C., November 17, 1981.

Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MCCLURE: On October 15, President Reagan transmitted a proposed waiver of law to the Congress pursuant to Section 8(g) of the Alaska Natural Gas Transportation Act. In his accompanying message, the President reiterated the "critical importance of the project to the energy security of this country" and as a demonstration of cooperation between the United States and Canada.

As you know the Senate Energy Committee has conducted extensive hearings on the proposed waiver of law and received testimony from a broad spectrum of witnesses, including financial experts, and consumers, as well as the project sponsors themselves.

As the Senate now moves toward final consideration on the proposed waiver, we would like to take this opportunity to reiterate several points which we believe are crucial in your analysis of the President's proposal.

1. Access to Alaska natural gas reserves is vital to the Nation's long-term energy security. The 26 trillion cubic feet of proven reserves at Prudhoe Bay comprise about 13 percent of domestic proven gas reserves. Completion of the project also will facilitate exploration and development of an estimated additional 100-200 trillion cubic feet of undiscovered gas in Alaska. It is our conclusion that the ANGTS represents the most realistic option to bring this gas to the lower 48 states.

2. Approval of the waiver will fulfill important U.S. commitments to the Canadian Government. Prior to the decision of the Canadian Government in the summer of 1980 authorizing the export of Canadian gas in support of the early construction of portions of the pipeline system, President Carter sent a letter to Canadian Prime Minister Trudeau underscoring the U.S. commitment to the project and pledging to initiate appropriate action before the Congress to remove legal impediments to the ability of the Canadian sponsors to recover their costs upon completion of the Canadian portion of the system. This commitment was endorsed by the Congress through the passage of a concurrent resolution in July 1980 stating that the project "enjoys the highest level of congressional support for its expeditious construction and completion." Given these commitments, failure to approve the proposed waiver could have serious repercussions for United States-Canadian relations.

3. The proposed waiver will ensure an equitable balance of the economic risks associated with the project. Given the extensive design and engineering work already completed by the project sponsors, the risk of precompletion billing due to significant construction delays or abandonment is remote. A more substantial risk to consumers is that, in the event of delay or abandonment of the project as a result of congressional inaction on the President's waiver proposal, they will be forced to rely on more costly and unstable supplies of imported oil. This project represents an important investment in the energy future of this country from which energy consumers will receive substantial long-term benefits. Significant procedural and other safeguards included in the terms of the proposed waiver, as well as in the underlying authority of the Federal Energy Regulatory Commission to review and ultimately to approve the project including the final tariff, will ensure that the interests of consumers remain protected.

4. The President's decision to propose the waiver of law was reached independently of the Administration's ongoing review of natural gas price decontrol. Whatever decision is reached by the President and the Congress on decontrol, the project sponsors will have a range of options to ensure the marketability of Alaska natural gas. The analyses of the various economic studies prepared for the project sponsors and made available to your Committees during the course of the hearings demonstrate that over the life of the project, the cost of Alaskan natural gas will be significantly below the price of alternative fuel supplies under any decontrol plan.

The proposed system will be the largest privately financed project in history. However, for the sponsors to attract significant private capital, they must demonstrate that the gas will be marketable when delivered to the lower 48 States. The proposed waiver is designed to clear away Governmental obstacles which now prevent a true market test of the project.

In his letter transmitting the proposed waiver to the Congress, President Reagan stated that it is critical to the energy security of this country that the Federal Government not obstruct development of energy resources on the North Slope of Alaska. We strongly urge your support for this important national energy project.

With best wishes,

Sincerely,

ALEXANDER M. HAIG, Jr.,
Secretary of State.
JAMES B. EDWARDS,
Secretary of Energy.

A MESSAGE FROM A FRIEND

Mr. MATHIAS. Mr. President, Alois Mertes is a respected figure in German political life. He is a pragmatic conservative who deals with life as he finds it and does not indulge in wishful thinking.

Although he speaks for the opposition in the Federal Republic of Germany, he speaks with the prudence and restraint usually characteristic of those bearing the responsibility of political office. Therefore, when he speaks, his words merit attention.

For many months, he has been worried by the drift in affairs that could cause a deterioration in the relationship between the United States and Europe. He recalls that he was originally an opponent of the "opening to the East" and the Soviet-German treaty.

But he is a realist and recognizes that those decisions were, in fact, accepted and have been the guidelines for international conduct for more than a decade.

Now, as a conservative as well as a realist, Mr. Mertes is speaking out of concern that history will be ignored and that a price will have to be paid, as is always the case when the lessons of history are forgotten.

In a recent interview published in the Washington Post, Mr. Mertes speaks to his long-time American friends, and I suspect particularly to the Members of the U.S. Congress.

I ask unanimous consent that the article from the Washington Post reporting his views be printed at this point in the RECORD.

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

REAGAN STYLE IS CRITICIZED: BONN CONSERVATIVE LEADER NOTES DISQUIET IN WESTERN EUROPE

(By Bradley Graham)

BONN, Nov. 7.—Talk by senior U.S. officials about fighting a limited nuclear war, on top of continued squabbling within Washington's foreign policy team, has begun to trouble even leading conservative politicians here, one of whom has warned that the Reagan administration is adding to "uncertainty and disquiet in Europe, above all in Germany."

In a statement, Alois Mertes, in his capacity as foreign policy spokesman for West Germany's opposition Christian Democratic Union, advised Washington to play down public references to military-strategic options and instead focus more on the political character of the East-West conflict. He also urged a stop to the sniping within the administration at Secretary of State Alexander M. Haig Jr., who is seen here as an official who understands Europe.

With crucial U.S.-Soviet negotiations approaching on arms limitations, Mertes said last night that it is important that the United States and Europe follow "a clear and constant course with respect to the Soviet Union."

Implicit in the appeal, which Mertes said represents "a mood that is widely spread" in his traditionally pro-American party, is the feeling that the Reagan administration is not sufficiently attuned to European political sensitivities and may be undercutting its own recent efforts to shore up alliance backing for plans to deploy new medium-range nuclear missiles in Western Europe. The criticism addresses the administration's style, not its policy. The Christian Democrats have not issued a formal statement.

Meanwhile, according to informed sources in London, U.S. Ambassador to Britain John J. Louis Jr. plans to tell the administration during consultations in Washington that there is more to the European peace movement than officials in Washington like to think there is.

Louis is expected to report that conflicting U.S. statements on nuclear strategy fan the movement and add to the concerns of the government of Prime Minister Margaret Thatcher.

Bonn has sought publicly to distance itself from this week's controversy in Washington over nuclear strategy. But Mertes, a leading party figure who was speaking out critically for the first time this year, highlight the seriousness of current U.S.-West German differences and would appear to signal a sort of storm watch in transatlantic relations.

Mertes, who volunteered his comments in a telephone call to The Washington Post here last night, said he was speaking as a friend of the United States and hoped his message would be interpreted in Washington as an attempt "to strengthen the bridge" between West Germany and Washington.

His criticism comes shortly after the Christian Democratic Union's national congress in Hamburg, which had stressed more dialogue with West Germany's youth, many of whom are active in the country's peace movement. There has been controversy in the CDU about how to reconcile the party with the peace campaign and West Germany's now established détente with the Soviet Union.

Mertes said West Germany's young people "are committed to the values of the West," but are put off by U.S. arguments "framed in military terms." The contrast this week between the military debate in Washington and the youth debate in Hamburg is what Mertes said prompted him to issue his warning.

"The fact that some representatives of the American government overemphasize military-strategic options instead of using more political argumentation, along with the criticism of Secretary of State Haig within the administration, favors the Soviet strategy of raising uncertainty and disquiet in Europe, above all in Germany," Mertes said in a brief formal statement.

"From a European point of view," he continued, "it is important in the current phase for the whole alliance to follow a clear and constant course with respect to the Soviet Union in order to achieve success in the coming [arms limitation] negotiations, which should lead to a balanced and verifiable reduction in the [military] potential on both sides without causing a reduction in security."

The U.S. discussion of nuclear plans and options, sparked by President Reagan last month and heated up again this week in congressional testimony by Haig and Defense Secretary Caspar Weinberger, has generally disturbed Europe more than America.

The reason for this has partly to do with Americans being more accustomed to public debate about nuclear weaponry than are West Europeans.

Europeans have been all the more disturbed by what looks to them as the matter-of-fact, almost casual way in which nuclear war is talked about in the United States when it would involve a European battlefield.

Further, there is a suspicious attitude to start with among some segments of the European public toward the security and defense intentions of the Reagan administration.

Mertes, asked what the administration should be saying to win European support for its policies, suggested the following:

The United States should say that the Soviet Union, like the United States, does not want war and the destruction of Europe. Rather, the Soviet strategy should be described as an attempt to undermine Europe psychologically to get it to follow Moscow's line. In order to do this, the Soviets can be said to be developing a wide range of military options that are intended less for military use than for use as political threats.

This line of argument, Mertes said, is preferable because it frames the East-West conflict more in political than military-strategic terms.

In fact, this line has been reflected in many of the comments made by members of the Reagan administration during the recent stepped-up U.S. campaign—involving European visits and interviews with European media—to convey U.S. policy more clearly and convincingly. But much of the American message has tended to be overshadowed here by the references to and controversy over nuclear weapons doctrine.

Haig's comments this week about an allied plan to fire a nuclear "warning shot" and Weinberger's denial of any such concrete plans received prominent play in the West German press. They have not, however, drawn as many sharp political and editorial outbursts as followed the remarks by President Reagan two weeks ago about the possibility of an East-West nuclear exchange limited to Europe.

One of those who joined in the earlier barrage of criticism—Karsten Voigt, foreign policy spokesman for the parliamentary group of Chancellor Helmut Schmidt's Social Democratic Party—told the Reuter news service he now felt resigned rather than indignant.

"I think the people who make these remarks must be doing it in the secret hope of strengthening the peace movement," Voigt said sarcastically. "They're certainly succeeding."

MOBIL CORP.: EXPLORATION BY ACQUISITION

Mr. CANNON. Mr. President, I take issue with a hostile attempt by the giant Mobil Oil Corp. to gain approval for their proposed acquisition of Marathon Oil Co.

This body gave long and careful consideration to this far-reaching issue at the time domestic oil prices were decontrolled and windfall profits for the industry approved. We were assured that these actions were needed to find more oil. Under the banner of "free enterprise" these special concessions were granted over the expressed skepticism and opposition of some of us concerned about the effects upon consumers and the validity of promises that new sources could now be found.

The message went like this: If we allowed them to enjoy the benefits of free enterprise, they said, expenditures for new-reserve exploration would increase tremendously. We could begin to break the grasp of OPEC, and aim for the day when we could stand free as self-sufficient, energy-producing Americans.

Yes; it was a wonderfully compelling story, and we bought it. It almost seemed like there was a muted chorus of "God Bless America" in the background whenever the oil giants gave us their promises.

But, Mr. President, it was a beguiling approach at best, and a blatant deception at worst. The Mobil Corp., in its bold attempt to take over the unwilling Marathon Oil Co., has given us their definition of new-reserve exploration—take your windfall profits and buy up the smaller guy's reserves.

It certainly is a very clean method of exploration, and with virtually no risk to Mobil. No messy and time-consuming test drillings, no discouraging dry holes, no exotic research into alternative sources. Just pull out your wallet and buy somebody else's tank—whether he wants to sell or not.

What does the consumer get out of this clever scheme? If he lives in one of several Midwest States where Mobil and Marathon currently compete, he may see the end of that competition and the price and service benefits derived from it. If he pins our country's exploration hopes on the entrepreneurial efforts of the smaller oil companies, he may watch his hopes come unpinned with the absorption of the lessers by the greaters. And if he expects this plot will lessen our dependence on OPEC oil, he is in for a lesson in big business.

As Prof. Morris Adelman of the Massachusetts Institute of Technology, an authority on world oil markets, explained in a Wall Street Journal story of November 12, Mobil has a critical relationship with the most powerful OPEC member, Saudi Arabia. It is one of the four U.S. companies with a significant role in marketing Saudi Arabia's crude oil. Professor Adelman asked:

> Is it a good thing to let a selling agent (Mobil) of the chief cartel member (Saudi Arabia) absorb a company that would otherwise be an independent buyer?

So those are all the wonderful things the consumer can expect from this innovative exploration scheme planned by the Mobil Corp. But surely, we ask with unflagging hope, the cost of this unfriendly acquisition must be minimal when compared to Mobil's budget for our hopelessly old-fashioned concept of real exploration, where undiscovered energy frontiers are entered—instead of the cash register. After all, that is the general picture painted for us by the big oil industry.

Again, Mr. President, we are wrong in making any hopeful assumptions concerning the giant oil companies. Mobil's $5.1 billion offer for Marathon is over 45 percent more than its entire 1980 budget for capital and exploration.

I am certainly not suggesting that I am any critic of the free enterprise system. But I am doing more than just suggesting that Mobil has hidden its exploration intentions behind the benign cloak of that concept, only to dash out and consume the competition in the name of free enterprise.

Mobil may rest assured that I am not alone among this body in remembering the soft promises given us months ago, and shuddering at the cold, hard actions of today.

As a retired oil company economist was quoted in the Wall Street Journal,

> This, the attempted acquisition, is bad for the industry. It is not going to promote competition; it is going to hurt it. And you want to maximize competition if you want to minimize Government regulation.

For once, there is an economist who makes sense. It is just unfortunate for Mobil that it has made a mistake in estimating the length of our memory.

What we now are witnessing is a race to merge on the part of the oil giants. Windfall profits are being used to increase monopoly power over energy production and to buy control of nonenergy companies as well.

The sheer economic power proposed here threatens the well-being of virtually every sector of the economy and encourages other oil companies to initiate still new mergers, eliminating competition and doing nothing to make America energy independent. This merger will produce not a single additional drop of oil. Since the independents traditionally plow back a higher percentage of their profits into exploration, it is likely to reduce supplies.

What the merger would do would be to place enormous pressure on already tight capital markets, fuel inflation still further, and boost high interest rates which respond in upward fashion as the credit crunch tightens. Certainly it will result in higher prices for gasoline and home heating oil.

The merger threatens to nullify the antitrust safeguards that the Congress has provided since the only foreseeable result would be to appreciably lessen competition and open up a long list of other companies to takeover attempts which would dismantle the competitive pricing of gasoline and petroleum products in retail markets.

Mr. President, I ask unanimous consent that the full text of the Wall Street Journal article, "Mobil and Marathon: Antitrust Considerations," by Paul Blustein, be printed in the RECORD.

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

[From the Wall Street Journal, Nov. 12, 1981]

MOBIL AND MARATHON: ANTITRUST CONSIDERATIONS

(By Paul Blustein)

NEW YORK.—"The Energy Crisis Is Over!" the cover of this month's Harper's magazine announced in bold black letters. Whether permanently extinct or not, world oil shortages and gasoline-station lines are indeed faded memories.

That's one reason that Mobil Corp.'s $5.1 billion offer for Marathon Oil Co., announced Oct. 30 hasn't generated much political fireworks. Another reason is that Marathon, the country's 16th largest oil company, is less than half the size of ninth-ranked Conoco Inc., which Mobil tried to acquire last summer after bids had been made by Seagram Co. and Du Pont Co.

But Mobil's sudden, unwelcome offer for Marathon does raise important public policy issues, according to a wide array of analysis and observers—including many friends of Big Oil. "This is bad for the industry," fumes an economist who recently retired from one of the top five U.S. oil companies. "It's not going to promote competition: it's going to hurt it. And you want to maximize competition if you're going to minimize government regulation."

Adds Leonard Weiss, an economics professor at the University of Wisconsin: "I thoroughly agree that (oil price) controls were very unfortunate, and I'm glad they're gone. But the assumption when we removed those controls was that the industry would behave competitively. If Mobile can acquire another major oil company, it would be difficult to prevent many mergers by firms only slightly smaller than Mobil. And I would much prefer that they put their money into exploration rather than acquiring competitors."

Mobil officials declined to be interviewed, citing various regulations surrounding the offer for Marathon (which is currently tied up in court proceedings). But Mobil has plenty of defenders as well as critics. A Mobil takeover of Marathon wouldn't by itself be injurious, says Prof. Robert Stobaugh of the Harvard Business School, co-author of "Energy Future," a study of energy policy. "The industry is fragmented and highly competitive," he says, noting the losses many companies have had in refining and marketing over the past year.

API FIGURES

Public perceptions aside, the oil industry is unconcentrated by most standards. Exxon Corp., the biggest company, controls just 7.7% of U.S. crude oil production and 8.8% of U.S. petroleum products sales. Mobil, the second largest in terms of revenue, controls 3.1% and 4.7% respectively; the eight largest firms control 40.8% and 46.1% respectively, according to American Petroleum Institute figures.

Oil industry experts say, however, that such figures sometimes mask important underlying factors.

As one of the four U.S. companies with a dominant role in marketing Saudi Arabian crude oil, Mobil has an unusually sensitive industry position, says Prof. Morris Adelman of the Massachusetts Institute of Technology, an authority on world oil markets. That's because Saudi Arabia is by far the most powerful member of the Organization of Petroleum Exporting Countries. "Is it a good thing to let a selling agent (Mobil) of the chief cartel member (Saudi Arabia) absorb a company that would otherwise be an independent buyer?" Mr. Adelman asks.

"Mind you," he continues, "as an independent buyer, Marathon is a small part of the picture. But I think every participant is valuable in policing the market a little bit."

Other analysts, however, say that the real worry isn't in the "upstream," crude oil producing end of the business—where there are literally thousands of competitors—but rather in the "downstream" refining and marketing end, where concentration ratios are somewhat higher in certain markets. Even downstream, the industry is far more fragmented than, say, automobile manufacturing. But that misses the point, according to Walter Mead, professor of economics at the University of California at Santa Barbara. "The question is," says Mr. Mead, "What is the relevant market?"

An economist with one of the "Seven Sisters" top oil companies maintains that the greatest threat to competition from a merger probably exists in gasoline retailing. While national figures may show high levels of competition, "you have to look at individual regions, cities and towns," the oilman says. "If the consumer has to drive 20 miles to a place where prices might be lower, it doesn't do him much good, because he uses up more gas than he saves. It's very different in the auto industry. If there's only one dealer in a town, it pays to try the next town."

Explains F. M. Scherer, a Northwestern University economist: "You have to be more worried about maintaining a large number of competitors for repetitively purchased, low-value consumer goods, than in markets for big-ticket items for which buyers do a lot of shopping around!"

Mobil and Marathon gasoline stations compete in several Midwest states: the question of whether the companies overlap significantly will presumably require close study. Mobil did, however, indicate during the Conoco battle that it would be willing to shed Conoco's marketing facilities. And it is no secret that Mobil is seeking Marathon, too, not for its downstream facilities but for its crude reserves.

That motive raises a different issue: how the companies are spending their OPEC-bloated profits. Some observers have long contended that acquisitions by the majors provide evidence that the industry isn't serious about finding new energy supplies, and the oil companies have always countered that the dollars spent on acquisitions are small compared with their overall capital budgets. (One of the most controversial acquisitions, for example, was Exxon's merger with Reliance Electric Co. in 1979. The $1.17 billion price tag contrasted with $6.3 billion that Exxon spent in capital and exploratory outlays that year.)

Exploration and development have been proceeding as rapidly as possible, oilmen say, with American Petroleum Institute figures showing domestic outlays by the two dozen largest companies at $17.8 billion for 1960, up from $13.2 billion in 1979. The first six months of 1981 showed a further 75% rise from the like 1980 period, according to the API.

Mobil's $5.1 billion offer for Marathon, however, dwarfs its $3.5 billion 1980 capital and exploratory budget. There have been other huge oil acquisitions in the past, most notably Shell Oil Co.'s $3.6 billion takeover of Belridge Oil Co. in 1979. But Shell brought technological expertise to Belridge, providing hope that Belridge's massive, hard-to-get "heavy" oil reserves in California could be more effectively exploited. While it's possible that Mobil may be able to get more oil out of Marathon's fields than Marathon can, there is no obvious reason to think so, analysts say.

A combined Mobil-Marathon would probably spend less on capital outlays than the two companies would separately, says Harvard's Prof. Stobaugh. Paying $5 billion to acquire Marathon "would give Mobil less financial flexibility: it's a big number even compared to the amount going into the oilfields," he says. "But it's not clear that if Mobil didn't buy Marathon, it would spend all that money for exploration. Mobil might just buy some small companies in deals that wouldn't be contested from an antitrust standpoint."

SELLING RESERVES TO MAJORS

Small oil producers, Prof. Stobaugh notes, often explore for petroleum in hopes of being able to sell their reserves to the majors. "That's why a lot of those independent oil operators are out there in the first place," he says.

But the larger independents, such as Marathon, ought to remain just that—independent, argues Samuel Schwartz, senior vice president-administration at Conoco (now a Du Pont unit). These "second-tier" integrated firms such as Phillips Petroleum Co., Cities Service Co., and Getty Oil Co. "have by and large plowed back their cash flow (into exploration) more fully" than the big internationals, Mr. Schwartz contends. "The nation benefits from having a broader range of companies."

It is the prospect of a wholesale raid on the second-tier companies, or a slew of defensive mergers among them, that most disturbs critics of the Mobil bid for Marathon. With crude reserves selling in the stock market at levels far below their replacement value, takeovers of companies similar to Marathon—if permitted by the government and the courts—might prove financially irresistible to other oil giants besides Mobil.

"Some people think you ought to ask: If Mobil is permitted to acquire Marathon, what will come next?" says Phillip Areeda, professor of antitrust law at Harvard Law School. One approach, he says, is for the government to decide, "If we would prevent other mergers of similar size, we should prevent this one."

It might seem unfair to judge a takeover on any but its own merits, so another approach is for the government to permit mergers up to the point where they become anticompetitive, and then intervene. Such a policy, notes Donald Turner, a former colleague of Prof. Areeda's, does present one obvious problem. "It's like an invitation," says Mr. Turner, a Washington attorney, "to race to merge."

THE DEPARTURE OF AMBASSADOR HEDDA

Mr. PERCY. Mr. President, I would like to commend Ali Hedda who has recently completed 8 years as Ambassador of Tunisia in Washington. Ambassador Hedda and his wife, Nedra, during their service here, have contributed immensely to the continuing warm and close relations between our two nations.

Ambassador Hedda's skill and charm have been a big factor in the growing support for Tunisia. Tunisian-American relations have been excellent for nearly three decades, but they have never been better than they are today. Ambassador Hedda tirelessly pursued Tunsia's interests with the administration and with Congress. When an issue arose in North Africa which directly affected Tunisia's or America's interest, Ali Hedda promptly and succinctly explained Tunisia's position.

There is no really right time for a good Ambassador to leave, but if Washington must give up Ali Hedda so that he may return to Tunisia to assume responsibilities there, now may well be the opportune moment. Tunisia is a success story in terms of both economic development and political liberalism.

During the past year, Tunisia had crossed the threshold from a lesser developed to moderately developed nation.

Last Sunday, Tunisia took a significant step toward greater democracy. The first multiparty elections were held in more than a quarter century. I would hope that the excellent relations between our two nations encouraged and assisted the Tunisians in achieving these successes.

The Ambassador has been more than the representative of Tunisia. As dean of the Arab diplomatic corps in Washington, Ali Hedda ably represented the Arab and Islamic world. Deputy Assistant Secretary of State Peter Constable called him "a bridge between Western culture and the Islamic world." This task has not always been easy considering growing regional tensions.

On a personal note, I would like to express my own warm feeling for Ali and Nedra Hedda. During the past 8 years, we have developed a strong friendship. As they return to Tunisia this week, I wish them well. Their country has every cause to be very proud of them.

CHURCHILL MEMORIAL LECTURE DELIVERED BY LORD CARRINGTON

Mr. PERCY. Mr. President, I would like to insert in the RECORD today the text of the Churchill Memorial Lecture delivered by the distinguished Foreign Minister of Great Britain, Lord Carrington, on October 27, 1981, before a meeting of European Foreign Ministers in Luxembourg.

Lord Carrington's speech is a significant contribution to the debate at present being conducted in Europe on the role of nuclear deterrence and of arms control in the maintenance of peace and stability.

I would strongly recommend that my colleagues in the Senate, if they have not done so, read Lord Carrington's excellent address. Lord Carrington's speech is a most positive step toward clarifying perceptions among the European public and restoring a sense of purpose and increased value to the North Atlantic Alliance.

I ask unanimous consent that the text of the Churchill Memorial Lecture, delivered by Lord Carrington, be printed in the RECORD.

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

TEXT OF CHURCHILL MEMORIAL LECTURE DELIVERED BY LORD CARRINGTON IN LUXEMBOURG ON OCTOBER 27, 1981

FOUNDATIONS OF PEACE IN EUROPE

Introduction

I am particularly glad to be speaking in this European Capital as British Foreign Secretary at a time when my country holds the Presidency of the Council of Ministers of the Community. I am very honoured by the presence of His Royal Highness the Grand Duke. We in Britain take pride in the links between our two Royal Houses. And I personally am proud to have been, your Royal Highness, a fellow officer in the Brigade of Guards in the last war. The British admire courage and the staunchness of friends. We salute the proud determination with which, forty years ago, Her Royal Highness the Grand Duchess Charlotte and the people of Luxembourg upheld the honour and the spirit of your country.

Winston Churchill spoke in this city 35 years ago of the vitality and personality, and of the courage guided by wisdom, which have preserved the independent and sovereign life of the Grand Duchy across centuries of shock and change. It is about the preservation of freedom in Europe that I shall speak tonight. It is a supreme important subject. It calls for clarity above all things. I shall try to be guided by one of Churchill's admonitions: men will forgive a man anything except bad prose.

Europe since 1945

Europe has changed very much since the last war. There have been tragedies and failures, but there have also been major successes.

Democracy and political stability, the ultimate foundations of peace, have taken root again and flourished in Western Europe as never before.

Our economies, despite their current problems, have grown greatly. Our living standards have risen beyond recognition. This too is a foundation of peace.

The overseas empires of the European powers have ended. This was a major change, which tripled the number of States in the world. It was accomplished in nearly all cases without major crisis—peacefully and with honour.

The rivalries, which had bedevilled Western Europe since the dawn of the nation state and had caused two world wars, have been buried forever. Instead we have forged a new unity and joined in an unprecedented effort to co-operate. In doing so we have enriched our partnership with America. These achievements are expressed in two unique institutions: the North Atlantic Alliance and the European Community.

In central and eastern Europe, the years since 1945 have been blighted by the tragic divide of the iron curtain. For nearly two decades it largely cut us off from our fellow Europeans beyond the Elbe. More recently the contacts which are natural among neighbours have again developed. We welcome this, and we know that the independent spirit lives on in every part of Europe.

I have mentioned good things and bad. But I have still to mention the most important and the best feature of our post-war Europe. It is contained in that ordinary word —post-war. We have had peace for 36 years. Our post-war period of half a lifetime is already approaching double the period between the two world wars. Half the people of Western Europe today were born since the guns fell silent.

Many in this audience, like me, have vivid memories of the pitiless suffering of conflict and occupation. Those memories make us all the more glad that our children have been spared similar experiences. Those memories also lay upon us a double obligation: to devise effective policies to maintain peace, and to make sure that those policies are understood by all generations and all sections of society.

There is no subject more important than the prospects for peace. I welcome the renewed public discussion about it in recent months. I respect the concern of those who think that the prospects are less reliable than before. I can understand why this feeling is reflected in a new questioning of our security policies, and especially of nuclear weapons. I agree that we must never be complacent and must never relax in our efforts for peace. That is why I am devoting this lecture, dedicated to Britains great war leader, to the crucial subject of peace in Europe.

The military balance

Military matters are too often discussed in impersonal, even inhumane, terms. I shall not speak in the grim jargon of megatons and overkill. But we must start by recalling the facts about the military balance.

In the early years after the war, the Soviet Union and its allies already had far larger conventional forces than the west in Europe. But the United States had nuclear weapons and the Soviet Union did not. The Soviet forces were able to promote the establishment of communist regimes across Europe and Central Europe. They also tried to frighten the western powers into abandoning Berlin. But the West stood firm. The lesson was already there: the Soviet Union would use its military strength to apply political pressure, but could be resisted successfully if the West was strong and determined.

Since then the military balance has changed radically. The Soviet Union has actually increased its advantage in conventional forces in Europe. It has laid greatest stress on attack weapons such as tanks, where the Warsaw pact now has an advantage of nearly three to one over NATO. But the biggest change, of course, has been in nuclear weapons. In intercontinental strategic nuclear forces, the Soviet Union has now caught up with the United States. And in long range theatre nuclear forces—those which are capable of reaching Western Europe from the Soviet Union and vice versa—the Soviet Union has built up clear superiority. A similar imbalance is now developing in shorter range nuclear forces. At the same time the Soviet Union has caught up with the West in the technical sophistication of its weapons. And it has acquired a worldwide Navy.

To achieve all these things the Soviet Union has recently been devoting some 13% of its gross national product to defence. This is an enormous burden, especially for a

country where the people have a far lower living standard than is enjoyed here in the West. Why have those sacrifices been made?

Soviet foreign policy

History may have given Russia a feeling of insecurity. That might help to explain the early stages of the Soviet military build-up. But it is difficult even then to justify on this basis the development of a heavy superiority in tanks and other offensive conventional weapons. And a vast superiority in theatre nuclear forces in Europe, in addition to greater conventional strength, cannot possibly be seen as defensive. Moreover, the Soviet Union can see very well that NATO is deployed, organized, equipped and trained only for defence. Our Alliance, I am glad to say, could not contemplate aggression even if it wanted to.

The record shows that the Soviet Union is willing to use force. We have seen it in Hungary and Czechoslovakia. We are seeing it now in Afghanistan. But we have not seen it so far in Western Europe. Why this difference? Because the risks have been too great. The creation of NATO and the American commitment to Western Europe have made aggression too dangerous.

Deterrence

That brings me to the concept of deterrence—of possessing weapons to prevent war. How is this basic argument to be re-stated with an immediacy that the young man or woman in the street will feel and comprehend?

He who will not learn the lessons of history is condemned to relieve them. That is certainly a principle that Churchill understood. Political debate today too often lacks historical perspective. For 2,000 years the experience of the peoples of Europe has been to live and relive the lesson that the price of freedom is untiring vigilance. A first duty of the State is to ensure protection from external assault.

Why should it be any different today? Observing the behaviour of the most powerful state on the Eurasian landmass since 1945. Do we have any reason to suppose that western security can be left to look after itself? I think the answer is self-evident. I am reminded of that wry East European joke which says, by way of excuse for the hardships of everyday life, we are going through a bad five hundred years just now. I never wish to see Western Europe obliged to fall back on such dark humour.

Nuclear weapons have transformed our view of war. But abhorrence of war is no substitute for realistic plans to prevent it. Our task is to devise a system for living in peace and freedom while ensuring that nuclear weapons are never used, either for destruction or for blackmail.

Nuclear weapons dominate the discussion today. But we tend conveniently to forget that some 50 million people died in World War II, killed by what are comfortably called conventional weapons. A nuclear war which does not happen is better than a conventional one which does.

That is a harsh saying but surely a true one. Since 1945 conventional war has killed up to 10 million more—but not in Europe. We in Europe, to ensure our security, must prevent any East-West war.

The combination of geography and totalitarian control of resources gives the Soviet Union a massive conventional strength which the western democracies have chosen not to match. And even if they were to, no western non-nuclear effort could keep us safe against one-sided Soviet nuclear power.

The purpose of deterrence is to influence the calculations of anyone who might consider an attack, or the threat of an attack, against us, to influence them before any such attack is ever launched, and to influence them decisively. Planning for this means thinking through the possible reasoning of an opponent. It means trying to ensure that he could never see a possibility of depriving the West of all alternatives but surrender. Failure to recognise this complicated but crucial fact about deterrence—that it rests on blocking off in advance a variety of possible moves in the mind of any possible opponent—underlines many of the criticisms made of Western security policy. To do this is not in the least to have a war-fighting strategy or to plan for nuclear war as something expected or probable. It is on the contrary to ensure that, even if an adversary believed in limited nuclear war, as Soviet writings sometimes seem to do, he could not expect actually to engage in one without losses out of all proportion to the desired gains.

NATO, then, is there to deter a possible adversary from starting a war, by making sure that the risk will always be too high. The East-West peace has held for 36 years now, a peace between political systems that are sharply opposed, between powers whose interests directly conflict. In the European historical perspective that is a striking achievement. No one can prove that deterrence centered on nuclear weapons has played a key part, but commonsense suggests that it must have done and it would be lunacy to assert that it had not.

Our purpose today is to maintain peace. That brings me back to the Soviet military build-up. Chancellor Schmidt is right when he stresses the importance of military balance. The danger today is that the imbalances that have developed will undermine deterrence. The erosion of deterrence would reduce the risks facing a potential aggressor. He might begin to consider more aggressive policies in Europe. He might consider starting a war. More likely he would calculate that he need not go so far. He might use his military superiority for military threats, hoping to win decisive influence over all of Europe without a war. That would create the biggest crisis in Europe since 1945. It would take us straight to the brink of catastrophe.

The many honest people in Europe who oppose nuclear weapons, and those in my country who advocate unilateral disarmament, are mistaken because of one fundamental fact: what they are suggesting would make war more likely.

Long range theatre nuclear forces

The task of maintaining deterrence involves a wide range of forces, including conventional forces in Europe and the intercontinental missiles of the United States. But the particular danger in Europe at present is the imbalance in long range theatre nuclear forces. NATO's capability in this field is small and aging. The decision to modernise it was taken in order to maintain deterrence. When NATO took that decision in December 1979, the Soviet Union had already deployed about 100 SS20 missiles with three warheads each.

Each warhead had a destructive force at least ten times that of the Hiroshima bomb. That was two years ago. Those numbers have now reached about 250 missiles with 750 warheads, of which two-thirds are targetted on Western Europe along with other long range theatre missiles and aircraft. And deployment is continuing unabated.

We do not need to match these numbers warhead-for-warhead, and we do not plan to. But in face of this threat we do need to sustain NATO's shield of deterrence. As Churchill said, you cannot ask us to take sides against arithmetic.

If nothing was done about this enormous imbalance, what would be the consequences. The Soviet Union, now or at sometime in the future, under tomorrow's leaders if not today's might reckon that it could afford to threaten nuclear attack on Western Europe without risking retaliation against Soviet territory.

The Soviet calculation would be that the West's only defence against Soviet long range theatre nuclear weapons would be the intercontinental missiles in the United States: and that America might not use these to defend Europe because of the prospect of Soviet nuclear retaliation against the United States itself. We have confidence in our American allies: but it is what the potential adversary may think that determines his behaviour.

The modernisation of American long range theatre nuclear forces in Western Europe, which have been stationed here since the early 1950's, makes impossible a Soviet calculation of the kind I have described.

It makes clear to the Soviet Union that the risks in an attack or a threat of attack in Europe far outweigh any possible benefits, the Soviet planner, seeing the modernised American theatre forces in continental Europe, cannot calculate that conflict can be confined to the central area, leaving the Soviet Union in sanctuary. America's commitment, which is the cornerstone of Europe's security, is reaffirmed. Deterrence is reinforced, and that reduces the risk of war.

Multilateral arms control

I am not suggesting that deterrence itself is an adequate policy in East-West relations. We must work unremittingly for better ways of ordering the world. I want East-West communication and contact at all levels, from tourism to summit meetings.

I want discussions with the Soviet Union on all the problems facing the world. I am glad that last month the Foreign Ministers of the United States and the Soviet Union spent no less than nine hours discussing the main issues together in New York.

I met Mr. Gromyko there too and I was in Moscow in the summer for discussions with him about the initiative of the Ten on Afghanistan. I want East-West negotiations. These have produced some successes over the years. More should be possible if the Soviet Union is ready as the West is, to show restraint in its international activities.

Negotiations about arms control are especially important, I am very glad to speak of this today, during United Nations Disarmament Week. It is a field where we must be vigorous and imaginative, for nothing is more important than to reduce the vast resources devoted to arms.

As Mr. Haig has said, the search for sound arms control agreements should be an essential element in our programme for achieving and maintaining peace. What are the principles that should guide us? The fundamental one is that arms control must enhance security. That means that it must limit the forces of both East and West.

It must be balanced. As Herr Genscher said in the General Assembly last month "Anyone who sets out in disarmament talks to seize or perpetuate unilateral advantages is heading up a blind alley".

Arms control must also be properly verified, so that confidence is created by each party knowing that the others are complying. To quote Herr Genscher again: "Anyone who rejects the necessary on-site inspection or other forms of verification, is liable to be suspected of wanting to conceal and deceive." He is destroying confidence instead of creating it.

The process of arms control needs to advance step by step. As one measure is achieved, and seen to work, so trust is created and more ambitious measures become possible. Grandiose declarations based on wishes rather than thoughts are, sadly, unlikely to achieve anything. We in Britain have been active in working for arms control. We played a prominent part in the negotiations of the Partial Test Ban Treaty and the Non Proliferation Treaty.

We introduced the Convention on particularly inhumane weapons which was adopted by a United Nations conference in 1980. We

are participating in other negotiations, including those in Vienna on mutual and balanced force reductions.

We welcome the announcement that negotiations on long range theatre nuclear forces are to begin between the United States and the Soviet Union next month. These negotiations were proposed by NATO at the same time as it took the decision to modernize its capability. Intensive consultation is taking place in the Alliance to prepare for the negotiations. We are ready to accept equal limits as low as the Soviet Union will accept. We have always said that we would be ready to look again at our deployment plans in the light of progress in negotiating Soviet reductions. The ideal would of course be the complete dismantling of all the Soviet missiles.

In their two meetings last month, Mr. Haig and Mr. Gromyko discussed SALT as well as theatre nuclear forces. The United Kingdom has always supported the SALT process. I hope that negotiations will resume early next year so that we may see the two sets of negotiations taking place at once about limitations on theatre nuclear forces and about reductions in strategic missiles.

The CSCE Review Conference resumes in Madrid today. We shall make every effort to reach agreement on the imaginative French proposal for a Conference about new measures to build confidence and security in Europe. We want such measures to satisfy four basic criteria: they must be mandatory, verifiable, militarily significant and applicable to the whole of Europe up to the Urals. If these criteria are met, the new measures can significantly enhance confidence in Europe. They can reduce the risk of miscalculation and surprise, by increasing the knowledge on each side of military activities on the other.

Unilateralism

I should like briefly to discuss some of the arguments advanced by the opponents of nuclear weapons in Europe. They say that Western planning is now based on fighting and winning a nuclear war. This is mistaken. In any nuclear war there would only be losers. NATO's nuclear weapons, as I have said, are designed to prevent war. They also claim that the cruise missiles destined for deployment in Europe are a first strike weapon. This is nonsense. The planned cruise missiles are of too short a range: they are also too slow and too few to knock out the Soviet missiles targeted on Western Europe.

The unilateral disarmers in my country say that other States would follow suit if Britain disarmed. But a British Prime Minister from the Labour Party, Ramsay MacDonald, was right when he said 50 years ago that disarmament by example does not work. The Soviet Union has explicitly rejected unilateral steps. Unilateral reductions on our side would remove the Soviet incentive to negotiate seriously about multilateral arms control. Remember that Soviet military expenditure went on increasing rapidly in the past 12 years, despite the fall in real terms on the Western side.

The movement for European nuclear disarmament has called for a nuclear weapon free zone from Poland to Portugal. This is unfortunately a delusion. I have pointed out that the Soviet Union has far stronger conventional forces. Their use would more readily be contemplated if there were no nuclear deterrent. Moreover, Soviet nuclear weapons can reach Western Europe from beyond Poland—indeed from beyond the Urals. What would there be to stop the Soviet Union threatening nuclear war?

The same movement says it hopes to extend its activity to the Soviet Union. How do they propose to set about that? There is surely a certain naivete in such suggestions, when confronted with the closed Soviet system.

Look at the persecution of the people who tried not to urge disarmament, but merely to monitor their country's compliance with the Helsinki final act. Remember the tragic example of Anatoly Shcharansky and the appalling treatment he has received for supporting the rights and freedom which all of us take for granted in the West.

My last example is the claim that we face the choice between being red or dead. This too is highly misleading, because there is in fact a third alternative. It is the one which Western Europe has pursued successfully for half a lifetime: to prevent war and remain free.

So let me say to the opponents of nuclear weapons, in Voltaire's words: I disapprove of what you say but I will defend to the death your right to say it. And let me add this. Please be careful that your agitation does not unintentionally serve the purposes of the Soviet Union, for under that system it is quite certain that you would never be allowed to speak and act as you do today.

Western European unity and the alliance with America

Let me quote Winston Churchill again. In Luxembourg in 1946 he said: "The future of the world lies not with the marauding empires of the past but with free countries dedicated to the simple human virtues, whose security is preserved by their collective strength upholding the rule of law." How prescient he was. I think we have done well in the way we have developed healthy political and economic institutions in Western Europe. The European Community is a demonstration that man can learn the lessons of history.

Instead of the carnage of Waterloo or Ypres, we nowadays solve our differences at the conference table. The differences can be wide and the issues can affect vital national interests. But we succeed because we all recognise the overriding need to find solutions which are fair and acceptable to all. This is why I am confident that we shall achieve success in the current, very business-like discussions about the future development of the internal policies of the Community and their financing. And we must work for the day when Spain and Portugal shall join in our growing co-operation.

At the same time we must strengthen our efforts to ensure that the members of the European Community speak with a joint voice on the main issues of world affairs. Our political co-operation has greatly advanced and this month in London the Foreign Ministers of the Ten adopted a report which consolidates past progress and opens up new possibilities.

I pay tribute to the work of past presidencies, not least that of Luxembourg this time last year in achieving this. Together we are working for peace in areas outside Europe too—such as Afghanistan and the Middle East. We are developing a dialogue with other countries and groups of states—for example with the Arab Nations and the Association of South-East Asian Nations, whose five Foreign Ministers met their 10 European colleagues in London a fortnight ago.

But the most important relationship for the security of Europe, of course, is the one with the United States. Europe and America still represent the prime example of that fashionable word interdependence. America has twice intervened to save freedom in Europe. Everything I have said this evening shows that without America we in Europe could never be secure. Moreover, the interest is mutual.

Without Europe, America would be isolated and at a grave disadvantage in dealing with Soviet ambitions. These ties of mutual interest, expressed in the North Atlantic Alliance, reinforce those of cousinhood and culture which underlie the transatlantic relationship. America itself is in the fullest sense a pillar of peace in our continent.

Conclusion

Peace in Europe rests four square on these foundations:

Effective deterrent, prevent war.

A Search for agreements to control arms on a balanced basis.

A renewed effort to develop our own West European Unity and to knit together the work we do in the European Community and in political co-operation.

A confident alliance with the United States based on co-operation and consultation.

If we build firmly on these foundations, we shall not find ourselves at the brink. They are the best hope for ensuring that not only our children but also our children's children shall not know the suffering of war. To those in Europe who would allow them to be eroded, let me quote Winston Churchill just once more: "Facts", he said, "are better than dreams. So let us espouse realism and, in Abraham Lincoln's words, cherish a just and lasting peace among ourselves, and with all nations."

S. 1802, FOREIGN ASSISTANCE APPROPRIATIONS

Mr. DOLE. Mr. President, I would like at this time to give recognition to the important work of a large group of private, voluntary organizations (PVO's) who for years have been serving this country as ambassadors of more than just goodwill—these organizations have brought technical assistance and know-how to developing nations in fields ranging from agriculture to health care to community planning.

Organizations, such as the Cooperative Agency for Relief Everywhere (CARE), the National Rural Electric Cooperative Association (NRECA), the Cooperative League of the United States of America (CLUSA), and the Church World Service/Lutheran World Relief of the National Council of Churches to only name a few, have provided a unique and constructive element to this Nation's overall foreign assistance efforts. They embody a direct and personal representation of American public concern for the welfare of the poor in developing countries. Many of these organizations are the conduits of private and public American contributions, and as independent, private and nonprofit agencies, they provide a significant measure of flexibility and efficiency to our foreign assistance programs.

The individuals working out of these organizations serving in the field, living and working among the poor populations of the world, are dedicated individuals who demonstrate the finest qualities of American public life and the principles of self-help and community cooperation which are the trademarks of the American way of life.

Mr. President, the Senate Appropriations Committee report on S. 1802 states that "in carrying out the mandates of this function, the committee believes that experienced outside organizations such as the National Rural Electric Cooperative Association and the Credit Union National Association should be utilized as much as posible. In recommending this, however, the committee is not suggesting that unrestricted funds be given to such organizations or that such funds be given without recourse to future evaluation or audit. However, the

committee does believe that organizations such as these can help to increase the effectiveness of the Agency—Agency for International Development—and therefore encourages their participation."

Mr. President, I strongly endorse the recommendation made by the Senate committee and urge my colleagues to join in supporting funding through S. 1802 that would allow these organizations to continue their outstanding work and relationship with the Agency for International Development (AID).

This bill contains provisions that directly impact on the future of these PVOS's and the work that they are currently involved with worldwide. Unless adequate funding is adopted this year by the Congress, practically all will be subject to cutting back their efforts in relief and technical assistance and development. For the past 3 years, Mr. President, these organizations have operated their AID-assisted programs on continuing resolutions. Because of this, activities have been limited, many have been ended.

At this time, Mr. President, I would like to give you just one example from the four previously mentioned PVO's in project involvement abroad and how that involvement is benefiting not only the people in the developing nation, but also the U.S. citizen and our economy.

NRECA

The National Rural Electric Cooperative Association (NRECA) represents the 1,033 rural electric cooperatives in the United States, which serve more than 25 million rural consumers. The International Programs Division of NRECA has been working since 1962 in over 40 developing countries by sharing U.S. know-how in creating reliable and cost-effective rural energy systems. Using 50 years of American experience and technological development in this field, NRECA has successfully shown how lower developed countries (LDC's) can help themselves to develop rural generation and transmission facilities and the managerial institutions to run them effectively.

Energy supply, particularly in the poor rural regions of the world, is key to economic and social development. Yet less than 5 percent of the rural populations in LDC's are currently supplied with power. When a rural community receives its own power, there is a resurgence in economic activity, bringing life to rural industries, irrigation for crops, and light to homes, schools, and hospitals. People are more willing to stay and work in an area where an energy source gives promise for future prosperity and a better standard of living.

U.S. assistance, both public and private, is helping to meet this need today. NRECA has carried out more than 300 assignments to assist in the planning and implementation of rural electrification and renewable energy development, and has assisted in making 1.8 million electric connections reaching 12 million of the developing world's rural poor. An additional 10 million people have benefited indirectly in terms of improved public health and services, employment opportunities and other day-to-day benefits which come with the introduction of energy.

In the Philippines, there are presently 120 energized cooperatives which have made 1.3 million electric meter connections directly benefiting some 8.5 million rural Filipinos. Twenty years ago, before NRECA and the Agency for International Development (AID) went in to help, there was virtually nothing. Today, these co-ops represent the strongest rural institutions in that country. Between 1965 and 1969, AID loaned $3.3 million to Banco Nacional De Costa Rica to develop three electric co-ops with NRECA assistance. So far, the project has reached 19,800 consumers with the co-ops holding $8 million in assets.

In these cases, and many others, AID provided funding for the technical assistance, engineering services and materials to build initial systems. Once the projects were well established and successful, the international lending community quickly came forward with funds to expand the program. In this role, funding through AID proves the value of a project at minimum costs, leading others to follow with the main sources of funding. In many projects, such as Costa Rica, significant local funding has been raised to move the project forward.

In virtually every case where NRECA has worked abroad, it resulted in demand for U.S. goods and services. Since U.S. rural electrification standards were used in setting up the distribution systems in these countries, the equipment used was American. Moreover, NRECA activities in the field of small hydrodevelopment markets for U.S. suppliers of turbine and generating equipment now exist. The goal of opening up new markets for U.S. exports continues to be a high priority of the National Rural Electric Cooperative Association (NRECA).

CWS/LWR

Church World Service (CWS) of the National Council of Churches and Lutheran World Relief (LWR) are two of the major international development and relief agencies of Protestant churches in the United States. Each has been active in basic human needs programs for over 30 years and each is part of an international network through which people around the world express their common concern in addressing chronic hunger, malnutrition, and improving the quality of life among the poor.

In 1980, CWS supported activities in 74 countries and the United States. Most of this funding came from church denominations, congregations, and individuals. About 43 percent originated with the U.S. Government due to U.S. interest in supporting CWS activities in Kampuchea and resettlement of refugees in the United States. About 30 percent of its funds came from the U.S. Government, in 1978 LWR was awarded an aid-matching grant of $3 million for a 3-year period, to be matched by privately generated resources. The AID–LWR matching grant resources to date have supported 57 projects in 12 countries in the areas of agriculture and community development, institution building, health and welfare and human resources development.

An example of one project involves an effort in Niger, West Africa, to increase food production through dry season gardening based on small-scale irrigation. Shallow-well construction has been encouraged using cement cylinder linings which help to preserve hand-dug wells from early collapse. To protect the wells and gardening plots from wandering animals and uninvited people, fencing is provided through appropriate varieties of thorn trees and bushes.

Other agricultural inputs are provided through the Government of Niger's agricultural Services Department. A total of 577 shallow wells, each capable of irrigating at least 0.25 hectares, are being constructed in six projects. The projects also incorporate literacy training, health education, and nutritional and dietary instruction.

Like the projects of other PVO's, the activities of CWS/LWR are carefully planned, monitored, and evaluated by counterpart agencies such as AID.

CARE

Almost everyone in the United States is familiar with the CARE relief package. But contrary to that popular belief, today CARE is more than just the package—although CARE was the first to carry food relief to Poland through the package, CARE has been working in overseas development for over 35 years in over 60 countries.

CARE holds a dual emphasis on immediate relief—such as starvation and disaster relief—and self-help development. CARE receives private contributions of approximately $30 million per year. In addition to this, it helps to administer and distribute $170 million worth of U.S. Government food commodities under Food for Peace and also receives grant moneys from the Agency for International Development in the establishment of projects, such as irrigation and food production.

CARE development projects work in many ways, such as food for work. In the country of Haiti, a community water system and small farm irrigation project was funded 1979–82 through $115,000 in donated funds and $167,000 in a U.S./AID grant. Approximately 75,000 people in Haiti will benefit from this project once completed with 16 villagers trained as maintenance and repair technicians.

During this project, a great deal of unskilled labor among the citizens is utilized, thereby utilizing an integration of resources and technology transfer from the United States. Food-for-peace commodities are used as compensation for the several thousand worker-days of unskilled labor needed to complete the project.

In Sri Lanka, a thriposh—high-protein, cereal-based food—production project is going on, producing 10,000 metric tons of foodstuffs, to be distributed to 600,000 mothers, preschool, and primary schoolchildren suffering from malnutrition. Funding for the food production project is provided by a U.S./AID grant of $55,000, $802,000 from CARE donated funds, and over $3 million from the Sri Lanka Ministry of Health.

This is an ongoing project promoting the use of soy foods and also marketing with the same funding involved. This project is well on the way to developing

self-reliance among the people of the community and promise to the Ministry of Agriculture in operating similar production and marketing projects.

CLUSA

The Cooperative League of the U.S.A. (CLUSA) activities in countries abroad have resulted from collaborative efforts between the league, the U.S. Government, and many foreign governments for the past 27 years. Throughout this period, the league has witnessed healthy collaborative efforts in establishment of cooperative systems in over 40 countries.

At present, the Cooperative League is carrying out development efforts in eight countries abroad ranging from marketing of fruits and vegetables, to construction of grain silos to numeracy training.

Since 1953, the league has maintained an office in India, when the Indian Cooperative Union requested assistance from U.S. co-ops in developing programs. In 1966, the Agency for International Development (AID) mission began assistance through financing for a permanent league office. The current operation program grant (OPG) provides financing for the office through 1981.

Since 1953, the league has helped to develop and provide technical assistance to major projects of Indian cooperatives in the areas of fertilizer production and distribution, oilseeds processing, dairy cooperatives, cooperative education and training, agricultural credit, farm machinery cooperatives, hybrid seeds cooperatives, consumer cooperatives, as well as many other types.

All of the league projects in India have resulted in major impacts on increased food production and enhancement of economic situations in the areas where the co-ops are located.

In almost all the international development projects of the league, initial input of between 1 and 10 percent is followed by a greater increase of other financial resources. In the projects of India, for 1978–83, CLUSA/AID assistance totaled $1.1 million—7 percent, with the Canadian Government providing $45 million—28.8 percent. Under this project, containing U.S. Public Law 480, donated vegoil, approximately 300 oilseed grower cooperatives encompassing 500 villages of 18,000 small farmer members will be established. The oil is important not only for generating funds for financing the various activities of co-ops, but will create a marketing system in anticipation of increased national production.

In Rwanda, the league has assisted in the construction of seven grain storage centers for local cooperative societies, the training of management of the storage units and local committee and staff of the Government Ministry of Social Affairs and the cooperative movement. With successful completion of the seven initial units, the Government of Rwanda asked the league to expand this operation to 40 cooperatives. The league is also conducting a feasibility study to develop a national level cooperative training and research center to serve Rwanda's growing cooperative movement. This approved project is funded not only by the Government of Switzerland, but a grant from the Agency for International Development (AID) will cover additional costs of the project.

Mr. President, these are just a few examples of the work of the private, voluntary and cooperative organizations of the United States. I believe that the work which they have done, and will continue to do, should receive not only high recognition by this body, but also our support for the efforts that they wish to continue in this fiscal year. These are not welfare projects, we are not throwing money out at will—these efforts are based on a minute amount of U.S. taxpayer money, leading to an opening up of markets for U.S. businesses abroad and the development of a solid, secure international relationship with these poorer nations through the transfer of this technology and know-how, and then leaving the country when self-help and development has taken solid root.

Mr. President, I believe that development assistance and those organizations which further that cause should receive more recognition than we have given it in the past, as well as adequate funding and needed support of all of us.

END THE VIOLENCE IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, the recent escalation of violence in Northern Ireland and in Great Britain is a cause of deep concern to all Americans who care about peace in Northern Ireland.

This new round of violence culminated last Saturday in the assassination by the provisional IRA of a member of the British Parliament from Northern Ireland, the Reverend Robert Bradford, who was shot down while meeting with his constituents in a community center in Belfast. A worker at the center also died in the assault.

Throughout the past decade, I have condemned the brutality and the killing on both sides in Northern Ireland. I condemn the murder of Mr. Bradford, just as I condemn the cruel sectarian murders of innocent Catholics by Protestant terrorists in Northern Ireland in recent weeks.

In this troubled period, I urge all the parties to refrain from any further escalation of the violence. I renew my appeal to all Americans who share the cause of peace in Northern Ireland to avoid any action or association that contributes in any way to the continuing violence. There are hopeful signs of progress toward a peaceful settlement of the conflict, and we must not permit them to be destroyed by those who seek to provoke greater violence.

Mr. President, I extend my sympathy to Mr. Bradford's family and to the families of the others who have died in this recent tragic violence. I ask unanimous consent that a statement in the Irish Parliament by Prime Minister FitzGerald on these deaths be printed in the RECORD.

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

STATEMENT IN THE IRISH PARLIAMENT BY PRIME MINISTER FITZGERALD

Before we begin our normal business I would like to refer to the brutal murder, by the Provisional I.R.A., of the Reverend Robert Bradford, M.P. in Belfast on Saturday last. His death and that of Mr. Ken Campbell, caretaker at the Finaghy Community Centre, are part of a calculated series of atrocities committed in recent days. I know all the people we represent share the sense of sorrow, anger and outrage felt by the people of Northern Ireland in recent days.

The killing of an elected representative of the people calls for particular condemnation in the strongest possible terms and serves to remind us of the real objectives of the organisation responsible. The I.R.A. has once again shown its utter contempt for human life and for the democratic process which it has recently sought to distort for its own ends. Its true attitude to democracy and freedom was summed up by a recent statement of an I.R.A. spokesman who, when asked by an interviewer for a foreign newspaper about the wishes of the people in this part of the country concerning an aspect of reunification, replied—"We call the shots. We don't really give a damn what they want."

The first clear objective of the killers of Mr. Bradford was to incite vengeance among Loyalist extremists and thus to expose once again to murderous retaliation the innocent among the most vulnerable community in this island, the Catholics of Northern Ireland. This has already begun to happen. The sectarian killings of Belfast and Lurgan are a direct and intended result of the Provisionals campaign of recent weeks, a campaign itself trenchantly described last Saturday by John Hume as one of "sectarian genocide" directed against Protestants.

I join with those brave and responsible leaders, clerical and lay, in Northern Ireland who have said to the Unionists and Loyalists: do not become the prisoners of the Provisional I.R.A.'s strategy, do not respond as they have intended and planned that you should do—in anger and in a manner that could escalate violence to new levels of horror and ultimately undermine your rights and liberties.

The Reverend Mr. Bradford had, for some time, considered an attempt on his life to be a strong possibility. It is a tribute to his courage that he did not flinch from that danger.

On behalf of the House, I would ask you, Ceann Comhairle (Speaker of the House) to extend our deepest sympathy to Mrs. Bradford and her family.

INTERIM REPORT ON EXPERIMENTAL PROGRAM OF ALTERNATIVE WORK SCHEDULES FOR FEDERAL EMPLOYEES

Mr. THURMOND. Mr. President, as the President pro tempore of the Senate, I have received the Office of Personnel Management's interim report on the Government's experimental program of alternative work schedules for Federal employees. This report is available for review by my colleagues in my President pro tempore office.

EXTRADITION ARTICLE NO BAN TO APPROVING GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, today I would like to discuss a facet of the Genocide Convention which continues to be misunderstood by those who oppose its ratification. That issue, Mr. President, is extradition.

Although this aspect of the treaty has been addressed many times, opponents cling to the notion that an accusation of

genocide automatically deprives an American of his rights to a fair trial.

Mr. President, nothing could be further from the truth.

First, the treaty is not self-implementing. Nothing in the treaty could be construed as an automatic instrument of extradition.

Second, the committee which drafted the convention makes clear that nothing precludes the right of any nation to bring to trial before its own courts any of its nationals for acts committed outside the nation. Not content to rely on the assurances from others, the draft of implementing legislation for the convention, section 3, specifically directs the Secretary of State in negotiating future extradition treaties which include genocide to always reserve the right to try Americans here at home.

Third, a U.S. citizen in a foreign country is normally subject to the laws of that country. If that country includes genocide among the crimes it condemns, a person could be detained whether or not the United States or the accusing country were parties to the convention.

Finally, Mr. President, any extradition treaty that the United States may negotiate in the future and which would include genocide, would be voted on by this body. There would be opportunity for full debate, opportunity for each and every Senator to fully express his concerns. I think it is safe to say that my colleagues would consider carefully the fairness of the judicial system in a given country before ratifying an extradition treaty with it.

Mr. President, again there is no self-implementing aspect to the convention. Congress is charged with the responsibility of approving any and all implementing legislation. It is to our credit as a Nation that we have proceeded carefully in entering into treaties where U.S. judicial guarantees are concerned.

It is not to our credit, however, to delay ratification of the Genocide Convention on these grounds. It is precisely because we value our constitutional guarantees that we are the international proponent of human rights and civil liberties.

Ratification of the convention would focus international attention on the real issue at hand: that of the prevention of genocide. As we have seen, the extradition provision should not deter our passage of the Genocide Convention. I urge its immediate ratification.

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 MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting a withdrawal and a nomination which were referred to the appropriate committees.

(The withdrawal and nomination received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:46 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 815) to authorize appropriations for fiscal year 1982 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to authorize appropriations for fiscal year 1982 for operations and maintenance expenses of the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1982 for civil defense, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1133. An act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal year 1982, and for other purposes.

At 3:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, and for the Central Intelligence Agency retirement and disability system, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the 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; that the House recedes from its disagreement to the amendments of the Senate numbered 4, 5, 30, and 41 to the bill, and concur therein; that the House recedes from its disagreement to the amendments of the Senate numbered 7, 11, 12, and 22 to the bill, and concurs therein, each with an amendment; and that the House insists upon its disagreement to the amendment of the Senate numbered 42 to the bill.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1797. An act directing the Secretary of the Department in which the U.S. Coast Guard is operating to cause the vessel *Capt Tom* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; and

H.R. 4500. An act extending through fiscal year 1983 SBA pilot programs under section 8 of the Small Business Act.

HOUSE BILL REFERRED

The following bill was read twice by unanimous consent, and referred to the Committee on Commerce, Science, and Transportation:

H.R. 1797. An act directing the Secretary of the Department in which the U.S. Coast Guard is operating to cause the vessel *Capt Tom* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by unanimous consent, and placed on the calendar:

H.R. 4500. An act extending through fiscal year 1983 SBA pilot programs under section 8 of the Small Business Act.

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-2240. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report and status of fiscal year 1982 rescissions and deferrals as of November 1, 1981; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-2241. A communication from the Assistant Secretary for Research, Development, and Logistics of the Department of the Air Force transmitting, pursuant to law, a report on the decision to convert the refuse collection and disposal function at Pope Air Force Base, N.C., to performance under contract; to the Committee on Armed Services.

EC-2242. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale by the Air Force to Turkey; to the Committee on Armed Services.

EC-2243. A communication from the Maritime Administrator, Department of Transportation, transmitting pursuant to law, a cost comparison study relative to repairing and outfitting the training vessel *Bay State* or reactivating and converting the *SS Tulare* to serve as the training ship of the Massachusetts Maritime Academy; to the Committee on Commerce, Science, and Transportation.

EC-2244. A communication from the Secretary of Transportation transmitting, pursuant to law, findings of an investigation into allegations of impropriety and wrongdoing and an allegation of negligence made

against certain senior officials of the Federal Highway Administration; to the Committee on Governmental Affairs.

EC–2245. A communication from the Assistant Attorney General of the United States for Legislative Affairs transmitting, pursuant to law, a report on the Department of Justice review of the annual report of the Inspector General of the Department of Health and Human Services relative to health care cases referred for prosecutive consideration to the Department of Justice; to the Committee on Governmental Affairs.

EC–2246. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–2247. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC–2248. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Stronger Crackdown Needed on Clandestine Laboratories Manufacturing Dangerous Drugs"; to the Committee on the Judiciary.

EC–2249. A communication from the Administrator of the Veterans Administration transmitting, pursuant to law, a report on a new system of records under the Privacy Act; to the Committee on Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 691. A bill to amend titles 18 and 17 of the United States Code to strengthen the laws against record, tape, and film piracy and counterfeiting, and for other purposes (Rept. No. 97–274).

By Mr. DOLE, from the Committee on the Judiciary, with amendments:

S. 1700. A bill to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes (with additional views) (Rept. No. 97–275).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Milan D. Bish, of Nebraska, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Lucia, and Ambassador Extraordinary and Plenipotentiary of the United States of America to Saint Vincent and the Grenadines;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Milan D. Bish.

Post: Ambassador to Barbados.

Contributions, amount, date, donee.

1. Self, $500 (each), 1979 and 1980, Nebraska Governor Club (Nebraska Republican Party).

2. Spouse, none.

3. Children and spouses names, none.

4. Parents names, none.

5. Grandparents names, none.

6. Brothers and spouses names: none.

7. Sisters and spouses names: none.

Elliott Abrams, of the District of Columbia, to be Assistant Secretary of State for Human Rights and Humanitarian Affairs;

Edwin Gharst Corr, of Oklahoma, a career member of the Senior Foreign Service, class of counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Edwin Gharst Corr.

Post: Ambassador to Bolivia.

Contributions, amount, date, donee.

1. Self and Spouse, $100, November 1979 to August 1980, President's Club of the Democratic National Committee.

2. Children and Spouses: Michelle Ruth (single), none; Jennifer Jean (single), none; Phoebe Rowena (single), none.

3. Parents: E. L. (Bert) and Rowena Corr, $12, 1976 to 1980, Washington County Women's Democratic Club, Oklahoma (annual dues of $3). $15, July 29, 1980, Washington County Democrats. $37, 1979, Washington County Democrats. $20, 1978, Washington County Democrats.

4. Grandparents (deceased).

5. Brothers and Spouses: E. L. (Bert) Corr, Jr., and wife Jeri, $50, 1980, Jim Hamilton, Democratic candidate for U.S. Senate. $50, 1978, Mike Sullivan, Democratic candidate for Oklahoma State Senate. $80, 1976–80, Political Action Group for Educators, Oklahoma (annual dues).

William R. Corr (single), none.

6. Sister and spouse: Ted and Jean Cochrane, $20, August 1, 1978, Common Cause. $25, November 6, 1978, Democratic National Committee. $20, November 6, 1978, American Civil Liberties Union. $50, November 15, 1978, Oklahoma County Democratic Party. $20, May 2, 1980, American Civil Liberties Union.

Note: I have made no contribution to political groups aside from those listed above I do not believe any of my relatives have either, but I am asking them to see if any have made donations during 1981 and will amend this statement if they have.

Melvin Herbert Evans, of the Virgin Islands, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Trinidad and Tobago;

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Melvin H. Evans, M.D.

Post: Ambassador to Trinidad-Tobago.

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, Mary Phyllis, none.

3. Children and spouses name: Melvin, Jr., and Kay Evans; Robert and Maresa Evans; William and Pat Evans; Cornelius Evans, none.

4. Parents names: Deceased more than 4 years, none.

5. Grandparent names: Deceased more than 4 years, none.

6. Brothers and spouses names: No brothers, none.

7. Sisters and spouses names: Myrtle Farrelly (husband deceased); Beverly Batroni (husband deceased); Jeanne Cruz (divorced), none.

By Mr. JEPSEN, from the Committee on Armed Services:

Melvyn R. Paisley, of Washington, to be an Assistant Secretary of the Navy.

Mr. JEPSEN. Mr. President, I report favorably the following nomination: Lt. Gen. Richard H. Groves, U.S. Army (age 58), for appointment to the grade of lieutenant general on the retired list. I ask that his name be placed on the Executive Calendar.

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

Mr. JEPSEN. In addition, Mr. President, in the Air Force Reserve there are 62 promotions to the grade of colonel (list begins with Ernest Z. Adelman), in the Naval Reserve there are 10 permanent promotions to the grade of commander and below (list begins with Hugh Highland), in the Navy and Naval Reserve there are 3,734 permanent promotions to the grade of commander (list begins with Charles E. Aaker), and in the Navy there are 67 permanent promotions/appointments to the grade of lieutenant commander and below (list begins with Michael A. Harwell). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 4, November 9, and November 10, 1981, at the end of the Senate proceedings.)

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 Mrs. KASSEBAUM:

S. 1859. A bill to amend the Federal Reserve Act to shorten the terms of office of the Board of Governors of the Federal Reserve System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 1860. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; to the Committee on Foreign Relations.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1861. A bill to amend the Internal Revenue Code of 1954 to simplify certain requirements regarding withholding and reporting at the source and to correct inequities regarding carryover of losses; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1862. A bill to modify the navigation project for Moriches and Shinnecock Inlets, N.Y.; to the Committee on Environment and Public Works.

S. 1863. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project to control beach erosion and provide storm protection along the Atlantic Coast of New York City from Rockaway Inlet to Norton Point; to the Committee on Environment and Public Works.

S. 1864. A bill to authorize the Secretary of the Army, acting through the Chief or Engineers, to construct the project for flood control, Cazenovia Creek, Buffalo metropolitan area, New York; to the Committee on Environment and Public Works.

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, Mr. ROTH, Mr. HEINZ, and Mr. MITCHELL):

S. 1865. A bill to delay the effective date of amendments relating to group eligibility requirements for trade adjustment assistance; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. GRASSLEY, Mr. BENTSEN, and Mr. ABDNOR):

S. 1866. A bill to assure safe drinking water; to the Committee on Environment and Public Works.

By Mr. McCLURE (for himself, Mr. JACKSON, Mr. ABDNOR, Mr. DOMENICI, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. LAXALT, Mr. SIMPSON, Mr. SYMMS, and Mr. WALLOP):

S. 1867. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. KASSEBAUM:

S. 1859. A bill to amend the Federal Reserve Act to shorten the terms of office of the Board of Governors of the Federal Reserve System, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE ACT AMENDMENTS OF 1981

Mrs. KASSEBAUM. Mr. President, in recent weeks we have been discussing the budget and its various facets. Certainly we have all become acutely aware of the potentially devastating impact high interest rates on our economy. As we continue to seek ways of obtaining reduced and stable interest rates, we have had the opportunity to closely observe the institutional and structural aspects of our monetary control system.

I have been and continue to be in favor of an independent, depoliticized Federal Reserve System. The worst thing we could do for our long-term economic stability is vest control of the money supply with Congress.

Nevertheless, I believe there are some structural modifications that would make the Fed more responsive and more open. Today, I am introducing legislation to begin this process.

First of all, my bill would limit tenure on the Board of Governors to 8 years instead of the existing 14 years. Current members would be allowed to finish their terms, with the 8-year limit applying to all succeeding members. I believe this accelerated turnover on the Board would create an infusion of new thoughts without jeopardizing its political independence.

Second, the bill would permit all 12 District Reserve Banks to have voting representation on the Federal Open Market Committee. Currently, only 5 of the 12 sit on the committee at a given time with the seven Governors of the Federal Reserve Board comprising the remainder of the committee. By making the District representatives a majority on the committee, the powers of the Fed would be decentralized.

Since the Federal Open Market Committee determines the extent to which the Federal Reserve System buys and sells Government securities, it is the most important policymaking body and this modest diffusion of control would conform with our system of federalism.

Finally, the bill would give the District Reserve Banks greater discretion in responding to economic conditions in their area by allowing them to make changes of up to 1 percent in the discount rates they charge on loans to member banks.

Currently changes in the discount rate are subject to the approval of the Board of Governors. My bill would permit this additional freedom only if the total amount of increases or decreases during the preceding 12-month period does not exceed 2 percent.

Further, the maximum differential between the highest and lowest rates in the Nation cannot exceed 3 percent. It also instructs the Board of Governors to establish procedures to confine the benefits of a lower rate to the District that has established that low rate.

Mr. President, I recognize that this bill will not lower interest rates, nor is it designed to do so. However, I believe that it would foster a structure more conducive to addressing monetary policy in the country. I encourage the Banking Committee to consider this and other proposals as soon as possible.

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. 1859

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 "Federal Reserve Act Amendments of 1981".

SEC. 2. (a) The second sentence of the second paragraph of section 10 of the Federal Reserve Act is amended to read as follows: "Upon the expiration of the term of any member of the Board in office on the date of enactment of the Federal Reserve Act Amendments of 1981, the President shall fix the term of the successor to such member at eight years, and thereafter each member shall hold office for a term of eight years from the expiration of the term of his predecessor unless sooner removed for cause by the President.".

(b) The last sentence of the second paragraph of section 10 of the Federal Reserve Act is amended to read as follows: "Any person appointed to be a member of the Board after the date of enactment of the Federal Reserve Act Amendments of 1981, shall not be eligible for reappointment after he or she has served a full term of eight years.".

SEC. 3. Section 12A(a) of the Federal Reserve Act is amended—

(1) by striking out "five representatives" in the first sentence thereof and inserting in lieu thereof "a representative of each"; and

(2) by striking out all after "Federal Reserve banks" in the second sentence and inserting in lieu thereof a period.

SEC. 4. Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following:

"Notwithstanding any other provision of this section, a Federal Reserve bank may increase or reduce the rate or rates applicable to advances and discounts under this section by not to exceed one percentage point without review or determination by the Board of Governors if—

"(1) the sum of the amount of the proposed increase or reduction and the total amount of increases or reductions of the same rate or rates during the preceding twelve-month period by that bank does not exceed two percentage points; and

"(2) the differential between the rate or rates established by that Federal Reserve bank and the rate or rates established by any other Federal Reserve bank would not, after the increase or reduction, exceed three percentage points.

The Board of Governors shall establish procedures to limit access to any rate which may be established pursuant to this paragraph for a district and which is lower than a rate established by another Federal Reserve bank to borrowers located in the district in which the Federal Reserve bank establishing the lower rate is located.".

By Mr. MOYNIHAN:

S. 1860. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; to the Committee on Foreign Relations.

FOREIGN SURVEILLANCE PREVENTION ACT OF 1981

● Mr. MOYNIHAN. Mr. President, in July 1977, I introduced the Foreign Intelligence Surveillance Act which addressed what must properly be regarded as the gravest threat to Americans' right to privacy which has yet arisen. I refer to the well-known Soviet practice of making use of its diplomatic establishments in this country to monitor the telephone conversations of Americans on a truly enormous scale.

Through the use of sophisticated electronic technology, the Soviets have been able to eavesdrop on the private telephone conversations of thousands upon thousands of Americans. Whatever the intelligence value of such activity—and perforce it must be substantial—there would exist here a profound problem even if the Soviets had never been able to make use of the information gained in this ongoing effort. For the Constitution of the United States obligates the Government of the United States to insure that the guarantees of the Constitution are not violated. It is not for nothing that we are enjoined to protect the Constitution of the United States against all enemies, foreign and domestic.

I return to this subject today, for the failure of the disclosures of this Soviet activity to stir a proper response in this country is more striking than it has ever been. Let us remember that the information regarding Soviet eavesdropping has been in the public domain since 1975. Indeed, the first reports of it were neither obscure, nor unofficial. The report of the Commission of CIA Activities within the United States, chaired by the late Nelson Rockefeller, said the following on June 6, 1975:

While making large-scale use of human intelligence sources, the communist countries also appear to have developed electronic

collection of intelligence to an extraordinary degree of technology and sophistication for use in the United States and elsewhere throughout the world, and we believe that these countries can monitor and record thousands of private telephone conversations. Americans have a right to be uneasy if not seriously disturbed at the real possibility that their personal and business activities which they discuss freely over the telephone could be recorded and analyzed by agents of foreign powers.

The bill I introduced on July 21, 1977, called on the President to take forceful action, including the expulsion of foreign diplomatic personnel, to put a stop to widespread electronic eavesdropping being perpetrated by the Soviet Union against the citizens of the United States. At that time, I said:

The violation of privacy by electronic means, the use of sophisticated electronics equipment to intercept telephone calls, data transmissions, and the like has become a major enterprise of the principal totalitarian government in the world, that of the Soviet Union. Through the use of machinery installed at its diplomatic missions around the United States—in New York, in Washington, D.C. in San Francisco—Soviet espionage services have eavesdropped on "hundreds of thousands, even millions" of Americans (so the Chicago Tribune reported in June of 1975) and have presumably used the information gained thereby to advance the national interests of the Soviet Union. Private communications of all sorts have been violated—and on a scale that dwarfs any previous surveillance effort by friend or foe alike.

Yet a curious—even eerie—unwillingness exists to confront not merely the dimensions of the problem, but also to imagine that we in the United States can do anything about this! I have stated that I regard it as the responsibility of the government of the United States to protect the right of privacy of all citizens, regardless of whether the threat comes from our own government or foreign governments. I believe that the Fourth Amendment to the Constitution, which protects the right to privacy, is under assault by foreign powers, and that it is time for the U.S. Government to do something about it.

I cannot stress too strongly that modern technology has given to foreign espionage a new dimension which needs to be understood in this country. The targets of Soviet interception of telephone communications now include our businesses, our banks, our brokerage houses, as frequently as our government agencies. Soviet espionage seeks to penetrate into other aspects of American life—commercial, intellectual, political—as much as it seeks illegal entry into the councils of governments. This is precisely why the problem is now one of interest to all Americans in their daily lives—not an abstract problem for intelligence operatives in trench coats.

The principle here is simple: so far as electronic surveillance is concerned our law defines what Americans cannot do to each other; it is time for a law which says what foreign governments cannot do to us.

Since then the administration has taken some actions in this area. On November 20, 1977, the New York Times reported that:

President Carter has approved a broad Government program to make it more difficult for the Soviet Union, other nations or businesses to eavesdrop on telephone communications in the United States.

Under the program, Federal research on how to improve telephone security will be increased. Nearly all Government telephone messages in Washington, New York and San Francisco are in the process of being routed through underground cables, rather than over the more frequently used but less secure microwave radio towers, and private industry is being actively encouraged to develop and use more secure telephone equipment.

The officials also said that the United States had made a direct diplomatic approach to the Soviet Union about its eavesdropping here, in connection with the discussions of the high levels of microwave radiation discovered in the vicinity of the American Embassy in Moscow.

More recently, the New York Times revealed some detail about a special unit set up as a result of the 1977 decision to combat such eavesdropping. In a March 26, 1979 article David Burnham reported that:

The Special Project Office was created to encourage businesses and Federal agencies to protect "sensitive information" that, experts in the National Security Council say, could be useful to a potential enemy even though it cannot be classified or otherwise controlled by the Government.

The office is the result of several years of secret debate among the top security advisers of President Carter and former President Gerald R. Ford about ways to secure public and private telephone messages, transmitted throughout the United States by microwave towers or satellites, against interception efforts by the Soviet Union and perhaps other countries.

Charles K. Wilk, a staff member of the Special Project Office, told a group of communication officials at a convention in Dallas recently that there was no question that "some sensitive Government information is vulnerable to interception and exploitation and should be better protected."

In discussing the vulnerability of some private companies, Mr. Wilk said that "the Federal Government plans to raise awareness and encourage the use of improved protections."

Both Mr. Bortz and Mr. Wilk cautioned against overreaction by the public. "The Federal Government is not suggesting that everyone's telephone calls are being monitored," Mr. Wilk said.

Creation of an agency to curb Soviet surveillance activities in the United States began with a special study conducted by the National Security Council under President Ford.

During the study, such far-reaching remedies as the abandonment of the widespread use of microwave telecommunication towers and the encouragement of the use of underground cables were considered. But the Council decided at the end of the Ford Administration that the decision should be left to the incoming President.

Shortly after Mr. Carter took office, the Council resumed its consideration of methods to stop Soviet eavesdropping, and decided about a year ago to adopt a far more modest approach than had been considered by the previous Administration.

And, Mr. President, last Saturday, November 14, 1981, the Times again reported on Soviet espionage activity in New York City where, according to FBI officials, the Bureau's own phones are stamped "not secure" because of Soviet eavesdropping. I ask that it be reprinted in the RECORD.

The actions which our Government has taken to date have been essentially defensive in nature and have been slow to take effect. At best, they can solve only part of the problem and only until such time as the Soviets develop new methods of counteracting our efforts to block their eavesdropping.

For these reasons, I am obliged to reintroduce my legislation today to stiffen our Nation's opposition to these electronic assaults on the privacy of our people. A democratic society has much of which it can be proud and among these things are openness and respect for the rights of individuals. These characteristics, which we cherish, should not become the playthings of the intelligence apparatus of a totalitarian state.

By reintroducing this legislation, I do more than call attention to our inadequate response to date. I also suggest that the pattern of avoidance which so far has characterized our response can and must be broken. For it is a matter of self-defense, plain and simple, and yet our passivity suggests that we are losing that basic instinct. It is more than time for this subject to be removed from the realm of technological exotica and placed squarely in its proper place—that is, an urgent subject for both our foreign and domestic policies.

There being no obligation, the article was ordered to be printed in the RECORD, as follows:

NEW YORK TERMED "HUB" OF FOREIGN SPIES IN U.S.

(By Leslie Maitland)

From the Soviet residence in the Riverdale section of the Bronx, where rooftop equipment permits surveillance of telephones throughout the Northeast, to Russian émigré communities in Brooklyn, where the Federal Bureau of Investigation fears that "sleeper" Soviet agents live in disguise, American and Russian agents are fighting each other for information.

Largely because New York City is the home of the United Nations and its many delegates, but also because of its pre-eminence as a business capital in an age when manufacturing advance represent the secrets many foreign governments are most eager to share in, the city is the focus of international espionage efforts.

According to the FBI, for example, even its own telephones are subject to eavesdropping by Soviet agents. Its own intelligence activities have made the bureau aware of that danger. Every telephone in the bureau's foreign-counterintelligence section is therefore marked with a sticker warning that it is "not secure." And for sensitive communication, agents use a separate, special scrambler phone that requires a different code each day from the National Security Agency in Maryland.

Understandably, perhaps, espionage is a subject that bureau officials have not discussed often in public. In addition to security reasons for keeping silent, they are subject to criticism both for laxity and for overzealousness. But in a recent series of interviews, the F.B.I.'s foreign counterintelligence experts in New York described some of their methods of operation, their efforts to stymie espionage by other countries and the importance of New York City as a spying center.

While F.B.I. accounts of intelligence activities cannot be substantiated in most respects because of their secret nature, the agency's descriptions offer a revealing look at what it says are its activities in intelligence gathering.

According to Donald J. McGorty, the special agent in charge of the bureau's Sino-Satellite foreign counterintelligence section—which focuses on every country but the Soviet Union—New York is actually "the largest base for foreign intelligence-gathering."

"New York is the hub," he said. "There are many more diplomats here than anywhere

else—even Washington. Even countries with whom we do not have diplomatic relations and who have no embassies have missions at the United Nations. And anyplace these people have establishments, there's an opportunity for espionage."

Not all the spying in the city, however, is actually directed at the United States, Mr. McGorty said. Some of it constitutes "third-country recruitment"—the development of a Libyan spy, for example, by Soviet agents here. The United Nations makes the city a prime location for such enlistment.

TARGETS OF U.S. AGENTS

Agents in the Sino-Satellite section devote most of their attention to representatives of 20 so-called "criteria countries," designated as top priorities. Under guidelines from the Attorney General, Mr. McGorty said, the bureau needs no specific information or suspicious move to touch off an investigation of a criteria country's actions, but it must be able to present "specific and articulable facts" to support arguments for inquiries into noncriteria countries.

He declined to name all of the target countries, but said they included Libya, Communist-bloc countries and the Palestine Liberation Organization. He added that more than 2,000 officials of criteria countries either worked or lived in New York City.

R. Jean Gray, the special agent in charge of Soviet counterintelligence, said that among more than 600 people the Russians have working in New York, 110 have diplomatic immunity, which extends to their spouses.

"About 35 percent of the people with immunity are suspected to be officers of Soviet intelligence services," Mr. Gray said. "Experience has indicated that among the remainder, a significant percentage are also members of Soviet intelligence services or are co-opted to carry out tasks for those services from time to time."

F.B.I. HAS 300 ON THE CASE

By contrast, the bureau has more than 300 agents assigned to foreign counterintelligence in New York, many less than it had at the height of the Cold War. With détente, the ranks were reduced, but in the past five or six years, chilling trends led to the adding of personnel.

Mr. McGorty and Mr. Gray say the bureau's espionage mandate is not primarily to gather information, but to detect and prevent spying by foreign agents. This obviously requires identifying spies in the city's foreign population, which calls for delicate judgments as to whether someone is acting outside the scope of his stated diplomatic functions.

"We have to find out who the players are before they play ball," Mr. McGorty said. The easiest way to accomplish that, he added, is to "get one of them to work for us so we'll know what they're up to." The prime recruits are intelligence agents from target countries, but the job of enlisting them is not easy.

An initial approach, Mr. McGorty said, is generally disguised as simple friendliness. Bureau agents (who are not allowed to operate outside the United States and cannot enter the gates of the United Nations) pose as lawyers or accountants while hobnobbing in the bars and restaurants frequented by representatives of other countries. Overtures are gradual, while agents work at cultivating confidence.

SHOPPING IN SUPERMARKETS

In some cases, he said, female F.B.I. agents are dispatched to supermarkets or beauty parlors used by a target's wife to enlist the woman's help in influencing her husband to shift his sympathies.

Making contact with Soviet targets has become particularly difficult since the opening of their residential complex in the Riverdale section of the Bronx, Mr. Gray said.

"They travel in by special bus from Riverdale together every morning and go back there together every night," he said. "At lunch, they eat in the cafeteria at the Soviet Mission. They don't have a lot of pocket money. You don't find them carousing around town."

Besides having to evaluate whether Soviet employees are really serving a legal function in New York, the bureau has also faced a problem in discerning whether spies are being slipped in among the 400 Soviet émigrés who arrive in the country each month.

MAY BECOME TAXI DRIVERS

"It used to be they would take a name from a tombstone in Michigan or someplace of someone who died at the age of 2 and write for a birth certificate and spend years creating a false identity," Mr. Gray said. "Now all they have to do is send him in as a Soviet émigré. An illegal may come in and spend five years driving a taxi, but then be called into action."

"By then," the agent continued, "he may even be a citizen, and he's learned the language. Maybe then he seeks a job with Grumman Aerospace, saying that in Russia he was an engineer." At that point he gains access to potentially important information.

The bureau has been attempting to develop a profile of the sort of person who may be only masquerading as a refugee. When suspicion arises, Mr. Gray said, "we try to interview them, or we try to neutralize their activities by interviewing everyone they're talking to—or else we notify the Immigration Service that the person should be returned."

In some cases, he said, the spy may not be posing as a refugee, but actually be an émigré unwillingly pressed into service as a Soviet agent—threatened, for example, with reprisals against family members still in the Soviet Union.

CONCERN ABOUT TECHNOLOGY

Ideally, bureau officials said, reluctant Soviet spies can be utilized as double agents to funnel misinformation. But this can be tricky, for the bureau may be deceived into believing it has a double agent working for the United States, when the spy is really a triple agent—a Soviet agent really working for the Soviets while pretending to the F.B.I. to have switched his loyalty.

"You can be reeled in for a year before you realize you've been hooked," Mr. Gray said.

The transfer of American technology to criteria countries—of growing concern, not just to the bureau, but to such agencies as the Customs Service and the Commerce Department—is regarded as a major focus of current spying efforts.

"Our only salvation is that they can't possibly assimilate all they're getting," Mr. McGorty said. He added that his agents regularly instructed companies with top-secret government contracts about how to guarantee security.●

By Mr. CANNON (for himself and Mr. LAXALT):

S. 1861. A bill to amend the Internal Revenue Code of 1954 to simplify certain requirements regarding withholding and reporting at the source and to correct inequities regarding carryover of losses; to the Committee on Finance.

LEGAL GAMING INDUSTRY TAX

● Mr. CANNON. Mr. President, on behalf of my distinguished colleague, Senator LAXALT, and myself, I introduce a bill to amend the Internal Revenue Code to simplify certain requirements that apply to the legal gaming industry and its patrons.

There are three features of this measure that I intend to address. The first provision of the bill repeals the present withholding requirements. The second provision of my bill would raise the level for informational reporting on payouts from $600 to $10,000. Last, the third provision would provide for a 3-year carryback and carryover of net gambling losses.

Mr. President, before I undertake an explanation of each of these three provisions, let me assure my colleagues from the outset that this legislation does not benefit only a narrowly defined set of gaming interests. On the contrary, the scope of this measure is much broader. I am not just talking about legal casino gambling in my State—rather, my bill is aimed at achieving equity in the tax treatment of patrons of several legal gaming industries.

For example, many people are not aware that over 30 States in our Nation have established parimutuel racing industries which provide those States with a significant revenue base that now, more than ever, is urgently needed. Furthermore, Mr. President, 15 States, the Virgin Islands, and Puerto Rico have authorized State lotteries and those States similarly derive economic benefits. I think it is easy to see that this legislation intends to alleviate the burdens of numerous States which must comply with these requirements.

Let me now review and discuss the first feature of this bill which would repeal present withholding. Currently, 20 percent withholding requirements exist for winnings of more than $1,000 involving bettor odds of 300 to 1 or higher from horseracing, dogracing, and jai alai. The 20 percent also applies to winnings of more than $5,000 from State-conducted lotteries. When one examines the issue of withholding, it is interesting to review some of the findings of the 1976 report to Congress of the Commission on the Review of the National Policy Toward Gambling, on which I served. Not only did the Commission find that withholding generates nominal revenues to the Federal Government, but it also pointed out that withholding only stimulates illegal gambling.

Now, Mr. President, I have consistently supported those policies which have proven to be effective in the deterrence of illegal gambling. I firmly believe we must do everything that we can to insure that illegal operators are halted in their tax-free ride at the expense of those law-abiding taxpayers. No one more than I wants to see the illegals pay their share. However, Mr. President, when a policy proves to be ineffective, and once more, even harmful to those States responsible for its compliance, then I must question its validity.

For example, the current emphasis on individual States assuming a greater share of the responsibility for providing services to its citizens is a point worth discussing as it relates to this issue. As Congress continues to make the necessary cuts in the Federal budget, and as individual States increasingly begin to feel the pressures to fill the gap, it becomes more and more important to use each and every viable alternative to raise revenue. As withholding has stimulated illegal gambling, reduced revenues have

directly affected the more than 30 States who rely on this industry as one of those viable alternatives.

To me, Mr. President, two Federal policies exist which appear to contradict each other. Instead of impeding the States diligence to realize its revenue goals, the Federal Government should be facilitating those endeavors in every way possible.

It is equally important to review the revenue aspects of withholding. The IRS, in its "Study of Compliance in Reporting Gambling Winnings—Tax Year 1977," estimated that gross tax collections from withholding in 1977 was $100 million. The Service's statistics admit that a portion of that $100 million is returned to those persons not required to file and from those that withholding exceeded the amount due. When those are deducted, the dollar amount is reduced to $68 million. Furthermore, it is estimated that $59 million is withheld from those taxpayers who comply voluntarily. Thus, one has to conclude that only about $9 million is generated by withholding.

In addition, Mr. President, it is significant to note that these computations do not even take into account the portion of sums now wagered illegally that would flow into legal channels as a result of change in this tax situation. IRS estimates that $12 to $15 billion is wagered illegally each year. Even if a small amount of this figure were brought into the legal system, substantial revenues to the Federal, State, and local, and industry sectors would be realized.

As I indicated earlier, the second feature of this bill raises the level of money an individual can win before reporting it to the IRS from $600 to $10,000. I know that my colleagues are aware of the ever-increasing costs for administering various and numerous Federal regulations. If one reviews recent studies in terms of a cost-benefit relationship, it is interesting to note that the administrative costs involved are greater than the benefits of procuring the names of each and every individual who won as much as $600.

Furthermore, these studies show that, while a higher reporting level would result in fewer transactions, those transactions reported would be those of real tax liability. It is also worth mentioning that most players are, in fact, net losers. As such, their winnings at the current level net out to an actual loss for that tax year. Therefore, the $10,000 reporting level would cover those transactions that do net out to a win, thus substantially reducing both industry and Government administrative costs.

The last provision of this measure would allow taxpayers a 3-year carryforward or carryback of net gaming losses. Current law permits taxpayers to deduct wagering transactions only to the extent of gains from such transactions. The Commission on the Review of the National Policy Toward Gambling, in its report, determined that very few bettors actually realize net wagering gains during their gambling careers. What this means, then, Mr. President, is that taxpayers who incur losses in a given tax year are unable to offset those losses if there are no winnings in that same tax year. Mr. President, this practice discriminates against the legal patron and just encourages individuals to patronize illegal operations in order to avoid the taxes in their entirety.

In conclusion, Mr. President, I think we can all agree that every effort should be made to insure that our tax laws are as equitable as possible. This measure, if enacted, will, I believe, bring a certain amount of that equity to the tax treatment of law-abiding citizens who patronize legal gaming operations.

In addition, this legislation is important because it will remove some of the barriers that prevent individual States, who by approval of their citizenry have adopted legal gaming as a legitimate form of revenue, from realizing their revenue goals. Notwithstanding these considerations, one very important factor stands out—one that we, as Members of Congress, should not ignore. By eliminating those policies that provide for a competitive illegal gaming alternative, this measure will substantially meet the goal of inhibiting the activities of the illegal gaming industry.●

By Mr. MOYNIHAN:

S. 1862. A bill to modify the navigation project for Moriches and Shinnecock Inlets, N.Y.; to the Committee on Environment and Public Works.

S. 1863. A bill to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project to control beach erosion and provide storm protection along the Atlantic Coast of New York City from Rockaway Inlet to Norton Point; to the Committee on Environment and Public Works.

S. 1864. A bill to authorize the Secretary of the Army, acting through tht Chief of Engineers, to construct the project for flood control, Cazenovia Creek, Buffalo metropolitan area, N.Y.; to the Committee on Environment and Public Works.

NEW YORK WATER RESOURCES PROJECTS

● Mr. MOYNIHAN. Mr. President, I now introduce three bills that would authorize the Corps of Engineers to construct water resources projects in the State of New York.

Each of these projects was included in the Water Resources Development Act of 1980, S. 3170, which I introduced last September 1980 in my capacity as chairman of the Water Resources Subcommittee. S. 3170 was reported by our subcommittee on September 16, 1980, but was never acted upon by the full Environment and Public Works Committee.

The prospect for passage of an omnibus water projects authorization bill in this Congress, I regret to say, is only marginally better than in the last two Congresses. Save for relatively minor rivers and harbors acts in 1974 and 1976, there has not been a water bill for over a decade.

Nonetheless, the possibility does exist for some action to occur in the near future on a small authorization bill. To this end, I introduce the Moriches Inlet stabilization project, the Coney Island Beach erosion project, and the Cazenovia Creek flood control project as separate pieces of legislation.

There are other important projects in New York which I will introduce at a later date.

Mr. President, I ask unanimous consent that each bill be printed in the RECORD followed by a brief description of each project.

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

S. 1862

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for navigation at Moriches and Shinnecock Inlets, New York, authorized in section 101 of the River and Harbor Act of 1960 (Public Law 86–646) is hereby modified to require the Secretary of the Army, acting through the Chief of Engineers, to take such action as may be necessary to stabilize Moriches Inlet at ten feet mean low water for the purpose of insuring safe navigation, at an estimated cost of $5,000,000 (October 1979). Such project is further modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers. Local interests shall pay the first $25,000 in cash or materials for any such costs expended in any one year.

MORICHES INLET

Mr. MOYNIHAN. Mr. President, the bill directs the corps to alleviate hazardous navigation conditions at the inlet. The State of New York and the Long Island Regional Planning Board have endorsed the Corps of Engineers' plan to stabilize the inlet against further tidal erosion. Although water quality and beach stabilization will also be enhanced by the project, the corps has justified this project essentially on its navigation benefits. The estimated cost of the project is $5 million. Local interests will cover the first $25,000 of any annual operation and maintenance costs incurred by the corps at the project.

The Corps of Engineers has been maintaining Moriches Inlet, formed during a storm on March 4, 1931, since the passage of the 1960 Rivers and Harbors Act. The corps is presently carrying out emergency repair work at the inlet as a result of a breach which occurred during January of 1980. The breach greatly increased the exposure of thousands of Suffolk County residents to significant flooding.

Moriches Inlet, one of six openings through the barrier beach on the south shore of Long Island, is now officially closed to navigation. The inlet is in the town of Brookhaven, Suffolk County. Over the last 20 years, the inlet had become increasingly dangerous to navigate as a result of progressive shoaling problems. Local commerce has suffered and a number of boating fatalities have occurred.

The inlet, now a recreational center and haven of refuge for coastal craft, once supported a receiving center for commercial fish catches. Commercial fishermen now regard Moriches Inlet as too hazardous for routine navigation and consequently have sought out neighboring inlets. Only four commercial fishing boats now operate out of the inlet.

The hazardous navigation conditions, mainly shallow water depths over a sandbar, have produced an alarmingly high rate of capsizing over the last decade. Between 1974 and 1978, six deaths occurred. As a percentage of overall boat use in the inlet (approximately 4,000 boats), the fatality rate is roughly three times the national average.

In addition to the navigational hazards, closure of Moriches Inlet has created serious water pollution problems. Moriches bay drains about 60 square miles of land. An abnormally high loading of nitrogen enters the bay through underground flow and stream flow. The nitrogen contributes to unacceptably high concentrations of coliform bacteria and has led to a ban on shellfishing.

S. 1863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct a project to control beach erosion and provide storm protection along the Atlantic Coast of New York City from Rockaway Inlet to Norton Point, in accordance with House Document 96-23, at a cost of $2,240,000 (October 1979). In conducting this project the Secretary shall protect the shores situated to the west of the terminal groin to be built at West 37th Street from possible adverse effects of this project. These protective measures shall not include the use of hard structures, but shall be limited to sand fill encompassing a protected zone beginning at the groin at West 37th Street and extending not less than two thousand feet toward Norton Point. The sand thus placed shall be replenished in the same manner and according to the same schedule as the beaches lying to the east of the above mentioned groin.

CONEY ISLAND

Mr. President, the purpose of the Coney Island Beach erosion control project is to restore the beach by hauling in additional sand, a process known as beach nourishment. The project will protect the beach from further erosion by the construction of groins. Groins are stone barriers extending from the beach several hundred feet into the ocean.

The Corps of Engineers project is strongly supported by the city of New York and the community residents. In 1979 dollars, the project is estimated to cost $2.2 million.

Erosion has taken its toll on the Brooklyn beaches. Beach widths are as narrow as 40 feet in some locations. In 1973, when initial engineering studies were conducted, the beach was about 300 feet wide.

Coney Island has as many as 10 million visitors annually. During the summer peak periods, over 400,000 people crowd the beach each day. The sand replenishment program, proposed by the Corps of Engineers, will reinforce current efforts by the Department of Parks and Recreation of the city of New York to improve the Coney Island Beach frontage.

Several details of the bill's language require explanation. The corps is directed to protect the sea gate coast from water pollution or erosion which may be exacerbated by the construction of the groin at Norton Point. The bill further stipulates that such protective measures shall be limited to "soft structures" such as sand fill. The New York State coastal zone management plan has adopted a policy which favors soft over hard structures because of their lower cost, reduced environmental harm, and greater esthetic value.

S. 1864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, shall construct the project for flood control, Cazenovia Creek, Buffalo metropolitan area, New York: House Document 96-126, at a cost of $1,830,000 (October 1979).

CAZENOVIA CREEK

Mr. President, in 1977, the Corps of Engineers submitted to Congress a plan for flood protection in the Cazenovia Creek Watershed. The corps recommended the construction of an ice retention structure on Cazenovia Creek in the town of West Seneca. Such a structure would provide flood protection as would exist along the creek under ice-free conditions.

Cazenovia Creek is the largest tributary of the Buffalo River. Over the last several years the Soil Conservation Service has placed riprap along the streambanks to retard further erosion. The Corps of Engineers completed two small snagging and clearing projects on Cazenovia Creek in 1949 and 1971.

Flooding remains the most serious problem in the Cazenovia Creek basin. Snowmelt and rainfall during the late winter and early spring, combined with ice jams, have caused considerable flood damage in the past. Failure to control the ice formation along the creek will cause the repetition of excessive flooding and property damage.●

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, Mr. ROTH, Mr. HEINZ, and Mr. MITCHELL):

S. 1865. A bill to delay the effective date of amendments relating to group eligibility requirements for trade adjustment assistance; to the Committee on Finance.

TRADE ADJUSTMENT ASSISTANCE

Mr. DANFORTH. Mr. President, I rise today on behalf of myself and Senators MOYNIHAN, ROTH, HEINZ, and MITCHELL, to offer legislation that could well have an impact on the livelihood of many thousands of deserving working men and women in America. This legislation, if enacted, would prevent an unnecessarily harsh eligibility standard under the trade adjustment assistance program from going into effect next February. It would not increase the program's budget allocation for fiscal year 1982, but rather would help assure the program's viability.

As part of the Omnibus Budget Reconciliation Act of 1981, the Congress agreed to extensive changes in the trade adjustment assistance program. This program has been in existence for over 18 years and is an integral part of our international trade policy. By compensating workers who lose their jobs as a result of imports, we are making a long-term investment in American labor. This investment is designed to insure that we maintain an experienced work force, ready to take on jobs in growth industries and in mature industries that need to retool to bolster their international competiveness.

The changes made in the TAA program in June cut substantially its costs and gave it a new direction. By equalizing the benefits received by workers who receive TAA with benefits received by workers under unemployment insurance (UI), we were able to reduce Federal spending for the program to the administration's targeted amount of no more than $205 million for the entitlement in fiscal year 1982. This represents a substantial reduction from the $1.5 billion originally estimated for the program. At the same time, we sought to move the program away from the traditional emphasis on cash benefits toward a much stronger emphasis on retraining and relocation.

In this regard, the administration pledged to spend an additional $112 million on retraining the smaller number of workers who would now be eligible for the TAA program.

Mr. President, this revised TAA program went into effect in September, although I note that money for training has yet to be appropriated. One additional change in the eligibility criteria, however, is not scheduled to go into effect until February 1982. This change would require imports to be a "substantial cause" of the unemployment, rather than the more reasonable "contribute importantly" eligibility standard currently in the law.

In June, I offered an amendment which was incorporated in the reconciliation bill that postponed enactment of this final change in the program by 6 months. At the time, many of us feared the new restriction would prevent thousands of deserving workers from qualifying for the small amount of money allocated for the program. It had never been the subject of hearings in the Senate Finance Committee.

Furthermore, the CBO estimated that the changes already enacted in the TAA program would in and of themselves result in a program that met the administration's budget objectives. CBO had no estimates for the savings from the measure in question, but in June reported that "due to the proposed requirement that individuals exhaust their UI benefits before being eligible for TAA, the proposal's impact would be miniscule." Therefore, it seems to me unnecessary, if not counterproductive, to retain this additional cumbersome criterion.

The CBO report to the Finance Committee cited another serious problem created by the "substantial cause" language:

> It might also be difficult to implement the Administration's proposal that the criteria for determining the eligibility of groups of workers be restricted substantially. The shift from a "contributed importantly" test to a "substantial cause" test, of the impact of imports on job separations would require substantial changes in the type of analysis performed by the Department of Labor (DOL) in its eligibility determinations.

The Secretary would be required to examine all possible causes of job separations and compare their relative contribution to layoffs in order to decide whether or not imports were less important than any other cause. This change presumes a level of sophisticated economic analysis that may not have been developed yet. Currently the Secretary only must determine if imports are an important cause of layoffs without examining other causes.

On December 7, I intend to hold hearings on this bill and will gladly hear any cost estimates the administration or anyone else cares to offer. In the meantime, however, one look at how the TAA program functioned as established by the Congress in the Trade Act of 1974, compared to how it is operating today, provides clear evidence that this final change in criteria is unnecessary and redundant. Between April 1975 and September 1981 some 1,241,636 workers were certified for adjustment assistance. Yet this year, for the period January 1 through the end of September, only 17,714 have been certified.

If this dramatic decline can be even partially attributed to changes already enacted in the TAA program, certainly the addition of one more severely restrictive eligibility criterion will cut away more of the program than the administration or the Congress ever intended. We should not let this happen.

By Mr. GORTON (for himself, Mr. GRASSLEY, Mr. BENTSEN, and Mr. ABDNOR):

S. 1866. A bill to assure safe drinking water; to the Committee on Environment and Public Works.

SAFE DRINKING WATER REGULATORY REFORM ACT

● Mr. GORTON. Mr. President, today I am introducing a bill, the Safe Drinking Water Regulatory Reform Act, which would, if enacted make several changes in the substance of the Safe Drinking Water Act. The bill raises what I think are some of the key issues involving that act, the goal of which is to assure that water supply systems serving the public meet minimum national standards for protection of public health.

Maintaining safe drinking water for America's cities and communities is an important and appropriate purpose for Federal regulatory activity. Yet this year, drinking water quality has been obscured by important congressional consideration of the issues of clean air and hazardous wastes. In my view, safe drinking water is at least as important. Many people with whom I speak do not know that there is a Safe Drinking Water Act. Others confuse it with the Clean Water Act. Before we can have an intelligent discussion of the issues, we must become aware of what the issues are. The bill I introduce today raises some of those issues. Hopefully, others will be raised and amendatory suggestions made as we consider the issues raised by this bill.

I would like to briefly synopsize the provisions of this bill. First, this bill would retain the Administrative Procedures Act as the primary mechanism for reviewing agency regulations promulgated under the Safe Drinking Water Act. The venue for judicial review, would, however, be expanded to be national in scope rather than limited to the District of Columbia Circuit Court of Appeals.

Second, this bill requires the Administrator to consider relevant recommendations or advice provided by the National Drinking Water Advisory Council. The act currently requires only that the Administrator consult with the Council. One section of this bill changes the composition and size of the National Drinking Water Advisory Council. The new composition would be four membership groups of four members each:

The general public, persons in the scientific community expert in the field of public health and water hygiene, representatives from State and local agencies concerned with water hygiene and public water supply, and representatives of both the publicly owned and private, investor owned segments of the water supply industry.

Third, this bill would add a new series of requirements to the proposal and promulgation of a national primary drinking water regulation or a State underground injection control program regulation. These include a determination that the costs of compliance with the rule are justified by the benefits resulting from application of the rule.

The relevant provision does not attempt to define "cost" or "benefit." It does not require that benefits be equal to or greater than costs. What the bill requires is a disclosure of the facts used by the Administrator, a general statement of the weight given them, and the extent to which these factors favored the rule.

The act, which came into existence in 1974, establishes two types of national primary drinking water regulation—interim and revised. The Environmental Protection Agency promulgated interim regulations in 1975, which became effective in 1977. Those interim regulations ware based upon a review and updating of the 1962 Public Health Service standards. As of this date, the Environmental Protection Agency has not proposed or promulgated a revised regulation under the act. Revised regulations were to have been based on reports of the National Academy of Sciences or other suitable scientific body.

This bill would eliminate the Administrator's authority to continue to amend interim regulations but would continue his or her authority to propose and promulgate revised regulations. Consequently, the bill would not retroactively modify or eliminate any existing maximum contaminant level. Only were the Administrator to promulgate a revised national primary drinking water regulation which expressly or impliedly amended an existing standard would the existing maximum contaminant levels be changed.

This bill would eliminate the Administrator's authority to prescribe particular treatment techniques which a water provider must utilize to realize the maximum contaminant levels established by the Administrator.

This bill would change the premise upon which the Administrator's regulation of contaminants would be based. The current law provides that the Administrator should "establish maximum contaminant levels for each contaminant which in his (or her) judgment * * * may have an adverse effect on the health of persons." This bill would substitute an Administrator's determination that a contaminant presents an unreasonable risk to the health of persons. This change presents a major issue which I hope can be openly and forthrightly discussed by the Toxic Substances and Environmental Oversight Subcommittee, which I chair, and the Environment and Public Works Committee, of which I am a member.

This bill will not affect what is known under the act as State primacy. Each State will remain free to enact and enforce drinking water standards that are more stringent than those provided by Federal law.

The current authorization for the Safe Drinking Water Act expires at the end of this fiscal year. Though the bill as introduced does not include the required reauthorization language, it is my intention that a reauthorization be added when President Reagan's budgetary proposals for fiscal year 1983 have been made available.

I want to stress at the outset, and I will continue to do so throughout the consideration of this bill, that I am not wedded to every change which is proposed. I regard this bill as a vehicle that raises some key issues. If this bill receives close scrutiny and generates thoughtful discussion from which we can devine improvements to the procedures called for in the Safe Drinking Water Act, the bill will have served its purpose.

I am pleased to observe that several of my colleagues have elected to join with me by cosponsoring this bill. They are Senator GRASSLEY and Senator BENTSEN. I appreciate their support. Also Senator ABDNOR.●

By Mr. McCLURE (for himself, Mr. JACKSON, Mr. ABDNOR, Mr. DOMENICI, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. LAXALT, Mr. SIMPSON, Mr. SYMMS, and Mr. WALLOP):

S. 1867. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation law, as amended and supplemented, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION REFORM ACT OF 1981

Mr. McCLURE. Mr. President, today I am joined by Senators JACKSON, ABDNOR, DOMENICI, HATCH, HAYAKAWA, LAXALT, SIMPSON, SYMMS, WALLOP, and GOLDWATER in introducing legislation to amend and revitalize the outdated Reclamation Act of 1902. The bill we introduce is a product resulting from consultation with Members of the House, the administration, and other interested groups and individuals. It incorporates many of the same ideas included in the bill passed by the Senate during the 96h Congress, and adds to them new concepts which will serve to increase the flexibility farmers may have in deciding how to manage their operations.

It provides, I believe, a good basis for the eventual resolution of the reclamation issues during this Congress. I intend to proceed to hold hearings on the bill in the Committee on Energy and Natural Resources before this session adjourns. I am assured that hearings on the subject will be held in the House as well, and it is my hope and intention to coordinate these hearings with the House so that those who wish to testify on the subject will not have to make more than one trip to Washington.

Mr. President, those of my colleagues who were Members of this body during the 96th Congress will remember the highly charged and sometimes emotional debate during Senate consideration of S. 14 in September 1979. Few other issues I have seen generated so much conflicting information, misinformation, and misunderstanding, and I hope we can avoid that situation's recurrence; but reclamation reform is indeed a very complex subject because of the variety of circumstances which exist. We have tried very hard to address these varied circumstances in a fair and equitable manner, but I do not doubt that there may be things we have failed to think of and that there may be room for improvement.

Mr. President, I have been interested and actively involved in the area of water resource development all of my professional life, both as an elected public official and as a private citizen practicing law in Payette, Idaho. I speak from direct experience about my own State of Idaho, but I also know that what applies to Idaho is true as well for all the 17 Western States. Much of our economy and quality of life can be attributed to the 1902 Reclamation Act, and its success. Idahoans know the benefits of the Federal reclamation program; 44 percent of Idaho's irrigated farmland is on reclamation projects, and 85 percent of its agricultural returns are from irrigated land. One-third or more of Idaho's people receive benefits from these projects.

It has been estimated that over $54 billion in economic benefits have been gained nationwide as a result of our investment in reclamation projects which has amounted to less than $7 billion since the program began. Rather than merely consuming resources like so many other of our Federal welfare and social programs, these projects produce wealth for our Nation. I believe in and will continue to support the Bureau of Reclamation program which has helped to build my State and the West.

There is, though, no question that the 1902 Reclamation Act, based as it is on an ownership limitation of 160 acres, is in need of updating. It should not be necessary to point out that farming has changed so dramatically since 1902 that applying terms and contexts from that era to the present is somewhat of an exercise in sentimentality. Through a process of evolution, the old law has become in many respects unworkable, unrealistic, and arbitrary.

We are all aware that the issue came to a head when the Carter administration, influenced by notions of agrarian land reform and redistribution and threatening a reversal of nearly 100 years of work in water development, issued regulations that went far beyond what was required by the courts to enforce the 1902 act. While the Carter administration is, of course, no longer in office, uncertainty over the status of the Federal reclamation program and the onus of the Andrus regulations still hangs over the heads of thousands of Western farm families. Like us, the Reagan administration is anxious to have the question of acreage limitation and the several other related issues settled as well, and the sooner the better.

Unfortunately, our old enemy, time, is catching up with us again. There is, at best, little more than a month left in this session of the 97th Congress, but I still think there is something to be gained in taking some action on the subject now as proof that we are indeed serious about answering the questions and solving the problems which exist in the area of reclamation law as it applies to so many people and places throughout the West.

I cannot keep from mentioning again, though, that the Senate did pass a bill on the subject, and while I was disappointed in some aspects of the bill as it was passed in final form, it was nevertheless a basically sound product of diligent work and hard compromise. We can pass a better bill during this Congress, and I very much hope the House will be able to solve its special problems this time around as only it can, so the people who are depending upon Congress as the policymaking branch of Government to settle this situation will not be disappointed.

I certainly wish to congratulate Congressman LUJAN of New Mexico for the leadership he has shown by writing and introducing his legislation on the subject, and I am quick to acknowledge that I have followed his format and language to a large extent in preparing my own bill for introduction. I believe it is fair to say that the House and Senate are headed in the same direction.

My bill, Mr. President, addresses the reclamation issues in three titles. Title I gives reclamation districts the option to remain under existing law, which provides an ownership limitation of 160 acres per individual or legal entity, in other words partnership, corporation, et cetera.

For example, a husband, wife, and two children could own a total of 640 acres. Existing law does not explicity address the question of leasing, and therefore under title I of my bill, farmers can lease an unlimited number of acres as long as the leases meet the arms length provisions in title III, which are designed to insure the benefits of the project accrue to the landowners.

Title I also contains several amendments to existing law which were agreed to in some form by the Senate in S. 14:

A landowner would no longer be required to live on or near his landholding.

An individual or legal entity which farms land within a district which has lesser productive potential than class I farmlands can request and receive water for a larger acreage which provides an equivalent productive potential.

The Secretary of the Interior is provided the authority to dispose of lands held in excess of the acreage limitations by an impartial process if the landowners have failed to dispose of the land themselves under their contract provisions.

The time for landowners to dispose of their excess lands is extended if they have been delayed in that process by a court order or secretarial action.

Exemptions from the acreage limitations are provided in the following circumstances:

First. After a district has paid its portion of the cost of the Federal project;

Second. If the landowner is a bona fide charitable or religious organization;

Third. If the landowner holds the property as a fiduciary—for example, trusts and banks;

Fourth. If water is supplied to lands only in unusually wet years or as a result of flooding;

Fifth. If the land is acquired through involuntary process of law, for example by foreclosure;

Sixth. If the tracts supplied with water are isolated and otherwise not economically usable;

Seventh. For municipal and industrial users pursuant to a contract;

Eighth. For projects constructed by the Corps of Engineers; and

Ninth. If the lands are owned by a State or a State subdivision.

Mr. President, there is general consensus in both the House and Senate about these exemptions. They have been considered in the past, and should not be controversial. In addition to these exemptions, title I provides that provisions of contracts and the legal effect of certain written instruments from the Secretary may be validated by the Congress. This item is of particular importance in my own State.

A court decision in the State of California, which held that advance payout of financial obligations would not permit exemption or release from the acreage limitations of the reclamation law, was interpreted by the Secretary of the Interior as invalidating the payout provisions of specific contracts. Idaho has over 50 contracts with payout provisions that may not be honored without this validation language.

Furthermore, the Federal Government is required to give its consent to be sued over other representations it may have made with regard to the applicability of reclamation law to water users.

Title II provides an option to the water district to have an opportunity for its farmers to own an additional amount of acreage eligible to receive project water which is not currently available under existing law. This option is only available to qualified recipients as previously defined by the Senate in S. 14, that is qualified individuals, families, or small legal entities which benefit 25 persons or less.

Marriages, deaths, inheritance, illness and retirement would therefore not affect the operational status of the farm, as is the case under existing law. Furthermore, the options for expanded ownership in

title II are not available to large corporations, which continue to be covered under title I. By this approach, we are able to recognize present realities and accommodate them while continuing to support the purpose of the Reclamation Act in promoting the family farm. What we have said is that a qualified recipient can elect to own up to 1,600 acres, and can lease up to an additional 1,600 acres.

An additional feature of title II is that a qualified recipient may elect to lease lands which push the landholding over the 3,200-acre mark, but only if the recipient pays full cost for the water supplied for lands leased in excess of the 1,600-acre base. To further remove the presence of what could be viewed as a Federal subsidy on this water, full cost is defined as the share of the project construction cost allocable to irrigation, plus operation and maintenance deficits, plus interest applied at the current rate applicable to 15-year U.S. Treasury obligations. Thus there can be no argument about a continuing subsidy as under other suggested full-cost formulas, because of the Federal Government's refinancing of its debt at current rates.

Title III requires that all leases under both existing law as provided in title I and under the expanded ownership provisions of title II, must be in writing, cannot be for a term of more than 10 years, and must contain certification that they are "arms length" transactions. Thus we prevent a situation in which a sham ownership is created wherein lands are leased on terms well below the true market value, in an effort to circumvent the intent of the reclamation laws.

That is, Mr. President, the thrust of my bill in a nutshell. I believe it encompasses a reasonable, workable, and constructive approach to a very complex problem—one which all the various parties should be willing to support. It provides reasonable limitations and conditions without cutting a farmer's ability to do just a little bit better because he has the ability and the initiative to do so.

I ask unanimous consent the text of the bill and a brief outline of it be printed in the RECORD.

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

S. 1867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall amend and supplement the Act of June 17, 1902, and Act supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as the "Federal reclamation law."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "Secretary" means the Secretary of the Interior.

(b) The term "irrigation water" means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(c) The term "district" means any individual, or any legal entity established under State law, which has entered into a contract with the Secretary for irrigation water.

SEC. 3. The provisions of the Federal reclamation law shall remain in full force and effect, except as amended in title I of this Act, or as may be inconsistent with title II of this Act as it applies to those electing to qualify under title II provisions.

TITLE I—RECLAMATION REFORM

RESIDENCY REPEALED

SEC. 101. Notwithstanding any other provision of law, hereafter irrigation water made available from the operation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees or operators thereof may not live on or near them.

EQUIVALENCY

SEC. 102. Wherever an acreage limitation is imposed by the Federal reclamation law, including this Act, the Secretary upon the request of a contracting entity shall designate by rule lands under the applicable acreage limitation within a district classified as having Class I productive potential or the equivalent thereof in other lands of lesser productive potential. Standards and criteria for determination of land classes pursuant to this authority shall take into account all factors which significantly affect the economic feasibility of irrigated agriculture, including but not limited to, soil characteristics, crop adaptability, costs of crop production, and length of growing season.

RECORDABLE CONTRACTS

SEC. 105. (a) Irrigation water made available in the operation of reclamation project facilities constructed after the enactment of this Act may not be delivered for use in the irrigation of lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, unless and until the owners thereof shall have executed a recordable contract with the Secretary requiring the disposal of their interest in such excess lands within a reasonable time. Such reasonable time shall be established by the Secretary, but shall not exceed ten years after the initial delivery of such water to those lands under terms and conditions required by reclamation laws generally.

(b) Lands held in excess of the acreage limitations imposed by the Federal reclamation law, including this Act, which, on the date of enactment of this Act, are receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may continue to receive such deliveries only: (1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or (2) if the owners of such lands are actively engaged in good faith negotiations with the Secretary for such contracts: *Provided,* That such deliveries shall continue for a period of not more than one year after the enactment of this Act if such a contract shall not by then have been executed.

(c) All recordable contracts covering excess land sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process according to such reasonable rules and regulations as he may establish: *Provided,* That the Secretary shall recover for the owner the fair market value for the land and improvements thereon unrelated to irrigation water deliveries.

(d) The periods of time for which the disposal of excess lands may have been required under recordable contracts executed under the Federal reclamation law, including this Act, are hereby, and in the future shall be, extended for the period of time in which the Secretary shall have withheld the processing or approval of the disposition of such lands, whether he may have been compelled to do so by court order or whether he may have declined to do so for other reasons, and shall be added to the period provided by such contracts.

(e) Excess lands which shall have been disposed of to comply with the terms of recordable contracts executed pursuant to this Act may continue to receive irrigation water only:

(1) if they are held by nonexcess owners under this title, or qualified recipients under title II; and

(2) if their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation law or title II of this Act, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitation on subsequent sale values which might otherwise be imposed by the operation of section 432e of title 43, United States Code.

CORPS OF ENGINEERS PROJECTS

SEC. 104. Notwithstanding any other provisions of law to the contrary, neither the acreage limitation requirements nor other provisions of the Federal reclamation law, including this Act, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers unless:

(a) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(b) the Secretary of the Interior, pursuant to his authority under the Federal reclamation law has provided project works for the control or conveyance of an agricultural water supply for the lands involved; or

(c) the provisions of the Federal reclamation law are, by Federal statutes, explicitly made applicable to the lands involved.

LEASING

SEC. 105. Except as provided in title II of this Act, lands which are leased, or subject to an option to lease by any lessee shall not be considered in the application of the acreage limitations provisions of the Federal reclamation law to the landholding of the lessee.

APPLICABILITY

SEC. 106. Neither the limitations and restrictions imposed by this Act nor any other provision of the Federal reclamation law shall prohibit the delivery of irrigation water for the irrigation of any lands:

(a) after the obligation of a district for the repayment of the construction costs of the project facilities used to make water available for delivery to such lands shall have been discharged, whether by payment of a single lump sum, by payment of periodic installments throughout a specified contract term or by such payments made on an accelerated schedule chosen by the obligor: *Provided,* That where any contract has been or may be entered into pursuant to the authority of the Rehabilitation and Betterment Act (Act of October 7, 1949, 63 Stat. 724, as amended), the contracting entity shall have the additional option of adopting a form of repayment consistent with section 5(c)(2) of the Small Reclamation Projects Act of 1956 (Act of August 6, 1956, 70 Stat. 1044, as amended) and if such form of repayment is adopted, the acreage limitation provisions of the Federal reclamation law shall not apply solely as a result of the indebtedness under such contract: *Provided further,* That the appropriate contracting entity or owner or owners of land with respect to which the contractual repayment obligation shall have been dis-

charged may request, and the Secretary shall provide, a recordable certificate acknowledging that the acreage limitation provisions of the Federal reclamation law no longer apply to such lands;

(b) so long as the lands thus supplied are held by a bona fide religious or charitable organization using the agricultural produce from the land or the proceeds of the sales thereof for charitable purposes;

(c) so long as the lands are held by a trustee, individual or corporate, in a fiduciary capacity for a beneficiary or beneficiaries whose interest in the lands served do not exceed the limits imposed by the Federal reclamation law or title II of this Act;

(d) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(e) acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of mortgage, by inheritance, by devise: *Provided*, That if, after acquisition, such lands are not qualified under the Federal reclamation law, including this Act, they shall be furnished temporarily with a water supply for a period not exceeding ten years from the effective date of such acquisition;

(f) which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the acreage limitations of the Federal reclamation law, including this Act;

(g) serve with a temporary supply of irrigation water under contract conditions permitting the withdrawal of such water from such lands for later use for municipal and industrial purposes;

CONTRACT REQUIRED

SEC. 107. Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storage for project purposes or at times when such water would not have been available without the operations of those facilities, may be used for water quality, irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws.

VALIDATION

SEC. 108. (a) Any provision of any contract between the Secretary and any party to a contract dealing with matters arising under the Federal Reclamation laws generally may be validated at the request of any non-Federal party to such contract made to the Secretary within three years after the enactment of this Act.

(b) Written representations relating to the acreage limitation provisions of Federal reclamation law which were in effect or made prior to the effective date of this Act by the Secretary of the Interior or his authorized agents on behalf of the United States, with or for the benefit of a contracting entity may be validated at the request of any non-Federal party to whom such written representation was made within three years after the enactment of this Act.

(c) The Secretary shall, within 90 days after the receipt of such request under subsection (a) or (b), transmit it with his comments and recommendations to the Congress. Unless the Congress, by joint resolution disapproves the application within 90 days from the date on which it receives the Secretary's transmittal, the contractual provision or written representation, which is the subject of the request shall be deemed to have been validated.

CONSENT TO SUE

SEC. 109. In addition to any other remedy available in law or equity, any party to a contract with the Secretary providing for water service or for the repayment of the construction costs of Federal reclamation project facilities used to produce irrigation water may bring an action in the United States district court for the district in which the project facilities are located, and only in such district, for mandatory injunctive or other appropriate relief to adjudicate, confirm, validate, or decree the contractual right of any person or entity, including but not limited to any contracting entity, who is the beneficiary of any such contract and to reform such contract in accordance with the terms of any written representation concerning the application or interpretation of the Federal reclamation law including this Act, or contracts made by the Secretary or his representative to such party or his predecessor in interest. Exclusive jurisdiction for such suit is hereby vested in the United States district court. In the case of written representation, if the court finds, on the basis of the evidence submitted, that the party would not have entered into the contract or accepted the interpretation of the contract but for the written representations made by the Secretary or his representative, which were relied on by those using such irrigation water, then the court shall order the Secretary to reform the contract to conform with the representations, and the contract, as reformed, shall be considered valid as of the date of the written representation.

ADMINISTRATIVE PROVISIONS

SEC. 110. (a) Nothing in this Act shall repeal or amend any existing statutory exemptions from the acreage limitation provisions of the Federal reclamation law.

(b) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this Act and other provisions of Federal reclamation law.

(c) Section 3 of the Act of July 7, 1970 (43 U.S.C. 4256), is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(d) Any nonexcess land which is acquired into excess status pursuant to foreclosure or other process of law, conveyance in satisfaction of mortgage, inheritance, or devise, may be sold at its fair market value without regard to any other provision of this Act or to section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes," approved May 25, 1926 (43 U.S.C. 423e): *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process by law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

(e) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

TITLE II—OPTIONAL EXPANDED OWNERSHIP

DEFINITIONS

SEC. 201. As used in this title:

(a) The term "individual" means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152).

(b) The term "qualified recipient" means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law, which benefits twenty-five such individuals or less.

(c) The term "landholding" means total irrigable acreage of one or more tracts of land owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary.

(d) The term "full cost" means all construction costs of facilities in service which are properly allocable to irrigation, plus all operation and maintenance deficits funded, less credit for payments, with interest on both accruing from the date of a new or amended contract pursuant to this title on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to the new or amended contract, and shall be calculated on the basis of the computed average interest rate payable by the Treasury upon its marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance.

AMENDMENTS OF CONTRACTS

SEC. 202. Any provision of any contract existing between the Secretary and any party pursuant to Federal reclamation laws as of the date of enactment of this Act may be amended to conform with the provisions of this title, and the Secretary shall so amend such contractual provisions at the request of the non-Federal party to such a contract. The provisions of this title shall become applicable to any such contract and to such party only upon amendment of the contract.

DELIVERY OF WATER

SEC. 203. (a) Upon the amendment of a district's contract to conform to the provisions of this title, and notwithstanding any other provisions of the law to the contrary, irrigation water may be delivered to a qualified recipient for use in the irrigation of a landholding of not more than three thousand two hundred acres of Class I lands, or the equivalent thereof: *Provided*, That not more than sixteen hundred acres of such landholding may be owned by the qualified recipient: *Provided further*, That lands leased for a term of one year or less for the purpose of water management and conservation in years of inadequate project water supply shall not be considered as part of a landholding solely because of having been so leased.

(b) Irrigation water may be delivered to lands leased in excess of a landholding of three thousand two hundred acres or the equivalent thereof as described in subsection (a), only if "full cost" as defined in subsection 201(d) of this Act is paid for such water as is assignable to those lands leased in excess of a landholding of sixteen hundred acres.

(c) In determining whether a landholding exceeds three thousand two hundred acres, the Secretary shall add to any landholding held directly by an individual, whether by ownership or lease, that portion of any landholding held by a legal entity or entities operating as a qualified recipient from which that individual benefits as an owner in proportion to that ownership.

(d) For the purpose of applying the full cost provisions of this section, the Secretary shall apply a duty of water to lands within a given district based upon the average duty of project water delivered to lands within the district each year for a period of five years preceding the year in which water is currently being delivered. Absent such a history, the Secretary shall consider the average duty of water for such periods of time as may be available, and such other pertinent data as he may determine.

TITLE III—LEASING REQUIREMENTS

SEC. 301. Notwithstanding any other provision of the Federal reclamation law including this Act, lands which receive irrigation water may be leased only if the lease instrument is:

(1) written; and

(2) for a term not to exceed ten years, including any options exercisable by the lessor.

In addition, the Secretary shall be provided with a certificate signed by the lessee which includes a legal description of the leased land, the term of the lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

SEC. 302. Any lease in effect as of the date of this Act shall be required to comply with the provisions of this Act within ten years of enactment of this Act.

THE RECLAMATION REFORM ACT OF 1981

SUMMARY

The bill provides options for treatment under Federal reclamation laws. Title I leaves existing law in place as to acreage limitations and leasing, but makes necessary amendments regarding residency, equivalency, exemptions, validation, consent to sue, etc. Title II provides a mechanism for individuals and legal entities benefiting 25 individuals or less to operate landholdings of up to 3,200 acres so long as not more than 1,600 acres is owned. In addition, lands in excess of 3,200 acres may be operated under lease if full cost for the project water is paid for all lands leased in excess of 1,600 acres. Title III provides that all leases under reclamation law must be (1) written; (2) at arm's length; and (3) for a period not to exceed ten years.

I. Title I—Reclamation reform

A. Residency requirement repealed.

B. Equivalency applied at the request of a contracting entity.

C. Disposal of excess lands by impartial process determined by the Secretary.

D. Extends time for disposal of excess lands which have been delayed by Secretarial action or Court order.

E. Exemptions: After payout (accelerated or lump sum); Bona fide charitable organizations; Fiduciaries; Unusually wet years or flood flows; Involuntary process of law; Isolated tracts; Municipal and industrial uses per contract; Corps of Engineers projects; and

F. Provides for validation of existing contracts, and certain written instruments.

G. Provides consent of the U.S. Government to be sued on contract provisions.

II. Title II—Optional expanded ownership

A. Provides that any individual may receive project water for a landholding of up to 3,200 acres, provided that not more than 1,600 acres may be owned.

B. Project water may be supplied to lands leased in excess of 3,200 acres, if full cost is paid, for project water used on lands leased in excess of 1,600 acres.

C. Full cost is defined as construction costs allocable to irrigation plus all operation and maintenance deficits funded. Interest shall be applied at the rate applicable to 15-year U.S. Treasury obligations.

III. Title III

Provides that all leases under both existing law and this Act must be: written, for a period not to exceed ten years; and at arm's length. Existing lessees are given ten years to comply with these provisions.

ADDITIONAL COSPONSORS

S. 569

At the request of Mr. JEPSEN, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 569, a bill to amend the Internal Revenue Code of 1954 to provide an investment tax credit for certain soil and water conservation expenditures.

S. 895

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 895, a bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years, to extend certain other provisions for an additional 7 years, and for other purposes.

S. 1131

At the request of Mr. DANFORTH, the Senator from Indiana (Mr. QUAYLE), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 1131, a bill to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes.

S. 1645

At the request of Mr. MOYNIHAN, the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 1645, a bill to let funds in individual retirement accounts be used to purchase collectibles.

SENATE JOINT RESOLUTION 93

At the request of Mr. HAYAKAWA, the Senator from Idaho (Mr. SYMMS), the Senator from South Carolina (Mr. THURMOND), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of Senate Joint Resolution 93, a joint resolution to clarify that it is the basic policy of the Government of the United States to rely on the competitive private enterprise system to provide needed goods and services.

SENATE JOINT RESOLUTION 123

At the request of Mr. HAYAKAWA, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 123, a joint resolution authorizing the President to proclaim "National Disabled Veterans Week."

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. MATHIAS, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Concurrent Resolution 32, a concurrent resolution authorizing a bust or statue of Dr. Martin Luther King., Jr., to be placed in the Capitol.

SENATE RESOLUTION 98

At the request of Mr. CRANSTON, the Senator from Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 98, a resolution to designate February of each year as "American History Month."

SENATE RESOLUTION 209

At the request of Mr. JEPSEN, the Senator from Wyoming (Mr. WALLOP), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Alabama (Mr. HEFLIN), the Senator from Alabama (Mr. DENTON), the Senator from Wyoming (Mr. SIMPSON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Connecticut (Mr. WEICKER), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Kansas (Mr. DOLE), the Senator from Nevada (Mr. LAXALT), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of Senate Resolution 209, a resolution expressing the sense of the Senate that the President of the United States, the U.S. Senate, and the Senate Committee on Banking, Housing, and Urban Affairs should pay careful deference to the specific provisions of the Federal Reserve Act, requiring broad regional and economic representation on the Board of Governors of the Federal Reserve System, in their consideration of nominees to the Board.

SENATE RESOLUTION 242

At the request of Mr. HART, the Senator from Nebraska (Mr. EXON) was added as a cosponsor of Senate Resolution 242, a resolution regarding SALT II.

AMENDMENT NO. 630

At the request of Mr. WEICKER, the Senator from Connecticut (Mr. DODD), the Senator from Maine (Mr. MITCHELL), the Senator from Maine (Mr. COHEN), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of amendment No. 630 intended to be proposed to H.R. 4560, a bill making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending Sepember 30, 1982, and for other purposes.

AMENDMENT NO. 631

At the request of Mr. WEICKER, the Senator from Rhode Island (Mr. PELL), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of amendment No. 631 intended to be proposed to H.R. 4560, a bill making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

AMENDMENT NO. 632

At the request of Mr. WEICKER, the Senator from Rhode Island (Mr. PELL), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of amendment No. 632 intended to be proposed to H.R. 4560, a bill making appropriations for the Departments of Labor, Health, and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

COMMERCE, JUSTICE, STATE, AND THE JUDICIARY APPROPRIATIONS—H.R. 4169

AMENDMENT NO. 634

(Ordered to be printed.)

Mr. WEICKER proposed an amendment to the bill (H.R. 4169) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1982, and for other purposes.

SECOND CONTINUING APPROPRIATIONS, 1982

AMENDMENT NO. 635

(Ordered to be printed and to lie on the table.)

Mrs. HAWKINS (for herself and Mr. CHILES) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 357) making further continuing appropriations for the fiscal year 1982, and for other purposes.

NOTICE OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Budget Committee will hear testimony relating to S. 193, the Tax Expenditure Limitation and Control Act, on Tuesday, November 24 at 2 p.m. in room 6202 of the Dirksen Senate Office Building.

Witnesses scheduled to appear are Senator EDWARD M. KENNEDY; Norman Ture, Under Secretary, Department of the Treasury; Alice Rivlin, Director, Congressional Budget Office; Paul R. McDaniel, professor of law, Boston College; and Fred Wertheimer, president, Common Cause.

For more information, contact Lynn Pearson of the Senate Budget Committee staff at 224–0544.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be permitted to meet during the session of the Senate at 1:30 p.m. on Thursday, November 19, to discuss Government merger policies.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 19, at 10 a.m., to hold a full committee meeting to receive a briefing on intelligence matters.

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

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND GOVERNMENT PROCESSES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Energy, Nuclear Proliferation, and Government Processes of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, November 19, at 10 a.m., to hold a hearing on nuclear proliferation policy and the implication of new technology.

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

ADDITIONAL STATEMENTS

SUPPORT FOR DIXON-PERCY EMBARGO AMENDMENTS

● Mr. SASSER. Mr. President, I rise to speak in favor of the Dixon-Percy amendment that the Senate passed on November 12. This amendment would prohibit embargoes of American agricultural products unless such a restriction is part of an across-the-board ban on all products.

I voted for the amendment because such an assurance is greatly needed to insure that the American farmer, and the agriculture industry in general, is not singled out to bear the brunt of foreign policy actions intended to benefit the entire Nation.

I do have one problem with the amendment, Mr. President, and that is its 1985 effective date. As originally proposed the amendment would have taken effect immediately. I favored this original date because I believed that the protections afforded farmers by this amendment were needed right away and should not be postponed for 4 years.

The sponsors of the amendment, however, accepted the change in the effective date. The amendment, even in its altered form, is of great importance to agriculture. I therefore supported it with this one reservation.

Agriculture is of supreme importance to this country and its trade position. Exports of agricultural products totaled some $42 billion in 1980 and are estimated to top $45 billion in 1981. Approximately 22 percent of the American labor force is involved in agriculture.

The profound impact of disruptions on this vital sector of our economy, Mr. President, cannot be treated lightly. This amendment recognizes the importance of agriculture by insuring that Congress will have a voice in future embargoes. The pending amendment permits the President to impose an embargo of agriculture products for a maximum of 60 days.

During this time Congress can decide whether or not to extend it for a longer period. If the Congress determines that the embargo should not be extended, then the matter ends there and the embargo expires.

In January of 1980, when the Soviet grain embargo was imposed in response to the Soviet invasion of Afghanistan, the American farmer was generally in support of the action. The patriotism of the farming community has been amply demonstrated in the past and this time was no exception.

As the embargo stretched on and on, however, and as it became apparent that the Soviets were able to obtain the grain they needed elsewhere, patience wore thin. Farmers had been willing to accept a fair embargo, but this one was not fair and, worse still, it was ineffectual.

The agricultural sector was left hanging for month after month. Under this amendment, this could not happen again.

It is essential, Mr. President, that a sector of the economy that is so vital to our balance of trade not be hampered by a selective embargo of indefinite duration; 20 percent of all U.S. exports are agricultural products. This represents our single largest category of exports.

We cannot jeopardize all the time, effort, and money that have gone into the developing of foreign markets for our agricultural products by the continuation of an uncertain embargo policy.

Mr. President, I endorse the Dixon-Percy amendment and urge my House colleagues to do the same.●

THE CRIMINAL CODE REFORM ACT

● Mr. HELMS. Mr. President, the Judiciary Committee is presently considering the reform of the Federal criminal code, and is working on a bill known as S. 1630. There has been considerable controversy surrounding this legislation, and it deserves careful study.

Recently, the Heritage Foundation published an analysis of various components of the Criminal Code Reform, prepared by Mr. Nicholas E. Calio, of the Washington Legal Foundation. Mr. Calio's observations go into great detail on some of the problems associated with so monumental an effort. He concludes:

Whether the act will accomplish its goal of streamlining criminal law to effect better and fairer criminal justice remains to be seen. What is certain, however, is that a measure as monumental as criminal code reform absolutely needs deliberate and careful consideration.

Haste, in this case, will be the enemy of responsible legislation. This is particularly true because all Federal legislation of the type and magnitude of S. 1630 has a "teaching" effect on the States. Many states can be expected to use S. 1630, if adopted, as model legislation and the bill's defects will ripple across the Nation.

Mr. President, I ask that Mr. Calio's study be printed in the RECORD at the conclusion of my remarks.

The study follows:

[From the Heritage Foundation, Nov. 10, 1981]

THE CRIMINAL CODE REFORM ACT OF 1981 (S. 1630)

INTRODUCTION

Congress has been working on a massive recodification of federal criminal laws for well over a decade. The most recent incarnation of this legislative effort is S. 1630, the Criminal Code Reform Act of 1981. Its stated purpose is the consolidation and simplification of all federal criminal laws in order "to establish justice" by "defining and providing notice of conduct that indefensibly threatens harm to those individual or public interests for which federal protection . . . is appropriate"; "prescribing appropriate sanctions for engaging in such conduct . . ."; and "establishing a system of expeditious procedures" to enforce the sanctions.

The Act was introduced by Senator Strom Thurmond (R-S.C.), Chairman of the Senate Committee on the Judiciary on September 17, 1981, and is co-sponsored by Senators Biden (D-Del.), Hatch (R-Utah), Kennedy (D-Mass.), Denton (R-Ala), DeConcini (D-Ariz.), Simpson (R-Wy.), and Specter (R-Pa)

S. 1630 is 425 pages long and goes far beyond a "recodification" of federal criminal law. A Heritage Foundation Issue Bulletin of July 1980 called S. 1630's predecessor in the 96th Congress, S. 1722, "[o]ne of the most potentially far-reaching—and, ironically, perhaps one of the least generally understood—legislative proposals of the past decade. . . ."

The same statement is true of S. 1630. Despite its lengthy history and quantity of co-sponsors, the present reform bill contains all or most of the defects which infected its predecessors. It seeks not only to recodify, but to revise and extend all existing federal criminal law. As such, the Act attempts too much and suffers from major theoretical,

practical and philosophical defects. No one, not even the drafters, seems to understand fully the impact of this proposed revision.

To evaluate this legislation is to begin with the question: does it accomplish its purpose? The answer is in part found by examining statements in last year's Judiciary Committee Report on the substantially similar bill from the last Congress, S. 1722.[1]

The report of January 17, 1980, states that the purpose of criminal code reform is "to restructure Federal criminal law so as to better serve the ends of justice in their broadest sense—justice to the individual and justice to society as a whole." The report also quotes remarks by Senator Kennedy published in the May 2, 1977, CONGRESSIONAL RECORD:

"The Criminal Code Reform Act . . . constitutes the most important attempt in 200 years to reorganize and streamline the administration of Federal criminal justice. It is a major undertaking, of critical importance to our people. As I have repeatedly stated in recent months, I view this legislation as the cornerstone of the Federal Government's commitment to the critical problem of crime in America."

The need to "streamline" federal criminal laws by virtue of a wholesale overhaul is based upon the belief expressed in the Judiciary Committee report that present "statutory criminal law on the Federal level is often a hodgepodge of conflicting, contradictory, and imprecise laws with little relevance to each other or to the state of the criminal law as a whole." If the goal of the criminal law reform is to streamline the administration of criminal justice in order to better address the problem of crime in America, then the answer to whether S. 1630 will achieve these goals is open to serious question.

To the extent that the bill would eliminate genuinely archaic provisions of the present code or do away with needless duplication and conflicting or vague language, the legislation is laudable and little ground for substantive controversy exists. However, the bill in fact fails to clarify the vagaries of criminal law and, as previously noted, goes far beyond recodification and clarification. In addition, despite the widespread belief that violent crime is America's most critical law enforcement problem, the bill appears to ease standards and penalties for such offenses while simultaneously adopting a strong anti-business posture by significantly expanding the potential criminal liability of businesses.

The Act also would repeal provisions which make it illegal to conspire to overthrow the United States government and to teach or advocate overthrow. Meanwhile, penalties for crimes such as rape, importing pornographic materials, and drug trafficking would be reduced. Yet S. 1630 is much tougher on "white collar crime." It would allow corporations to be prosecuted for the acts of agents acting without the authority of the company as well as for offenses like "racketeering" based upon two or more technical violations of the securities laws. Business fines would be increased radically and a new civil action would require companies to notify customer/victims of alleged company offenses.

These are only a few of the many provisions which have been inadequately examined.

HISTORY OF CRIMINAL CODE REFORM

S. 1630's long history dates from 1952 when the American Law Institute began drafting a "Model Penal Code." Ten years later, the Council of the American Law Institute published the "Proposed Official Draft" of the Model Penal Code.

In 1966, Congress created the National Commission on Reform of Federal Criminal Laws. The Commission, whose chairman was former California Governor Edmund B. Brown, submitted its recommendations to Congress and the President in a Final Report on January 7, 1971. The Report was intended as a "work basis" for congressional choices. Extensive hearings by the Subcommittee on Criminal Laws and Procedures of the Senate Judiciary Committee followed during 1971 and 1972.

On January 4, 1973, Senators John McClellan, Roman Hruska, and Sam Ervin, all of whom served on the Brown Commission, introduced S. 1, the first in a series of omnibus bills to reform, revise, and recodify the Federal Criminal Code. Similar bills have been considered—without passage—in each succeeding Congress.

During the 95th Congress, the Criminal Code reform bill was known as S. 1437. It was reported favorably by the full Judiciary Committee on November 15, 1977, and was passed by the Senate on January 30, 1978. None of the various bills, however, has ever reached a vote on the floor of the House of Representatives.

The history of this legislation and the many changes that have been worked on successive versions are evident in the hearings and reports of the Senate Judiciary Committee and its Subcommittee on Criminal Laws and Procedures, a record that encompasses some 11,750 pages of testimony, statements, and exhibits in 18 volumes of hearings conducted during 1971, 1972, 1973, 1974, 1975, 1977, and 1979 under the overall title "Reform of the Federal Criminal Laws."

During the 93rd, 94th, 95th, and 96th Congresses, these hearings have been supplemented by detailed Committee reports of great length and comprehensiveness; the most recent report (Senate Report No. 96–553, "Criminal Code Reform Act of 1979," January 17, 1980) runs 1,517 pages. (The hearings recently held on S. 1630 have not been transcribed.)

The hearings contain detailed pro and con analyses by some of the nation's most eminent legal authorities, representatives of concerned special interest groups, and officials of the Department of Justice.

An examination of selected provisions of the bill underscores the deficiencies characteristic of the entire bill, the changes it will effect in existing law, and its anti-business bias.

WORDS AND DEFINITIONS

Perhaps the most fundamental deficiency in S. 1630 is that it replaces statutory language enhanced and illuminated by hundreds of years of common law development with new words and definitions subject to de novo interpretation by a modern federal judiciary which already is unable to keep pace with its caseload.

Furthermore, the definitions in different sections relate to one another in such a way that cross reference is necessary to fully understand the bill.

Chapter 3 of the bill, for instance, defines the culpable states of mind and the proof necessary for each. It identifies four states of mind: intentional, knowing, reckless, and negligent.

It then applies these states of mind to three possible situations: conduct, an existing circumstance, and a result. The state of mind necessary to convict varies with each situation.

Not only is this type of codification confusing, it eliminates the traditional concepts of mens rea (guilty mind or criminal intent) and culpability developed over the last 400 years of Anglo-American jurisprudence.

Chapter 3 alone could alter federal criminal law fundamentally as each federal district judge struggles to define the new terms in his own fashion.

Numerous states of mind now exist which apply to particular offenses and which have been developed through case law as needed. Eliminating this body of law through "codification" may simplify the process, but it certainly will not improve criminal justice and may well be a step backward.

Under the bill, each federal criminal law has been codified and defined to be comprehensive and inclusive. These definitions have extended the reach of each federal violation; just how far and what conduct the new interpretation will reach will depend on innovative and aggressive prosecutors who may attempt to expand their authority. At this time, however, it is impossible to foresee all the areas of potential abuse.

Reviewing a few offenses covered by the bill exposes some of the difficulties which should be examined carefully by Congress.

INCHOATE OFFENSES: EXPANSIONS

S. 1630 contains three inchoate offenses: attempt, conspiracy, and solicitation. The proposed code expands federal jurisdiction in defining these crimes and in its procedural approach to these inchoate offenses.

Attempt

S. 1630 creates a federal "attempt" statute. Currently, no such federal statute exists; only specific attempts in relation to particular crimes are punishable. The most important conceptual problem with the "attempt" provision is that it mixes contradictory concepts.

While requiring as a culpable state of mind that an individual "intentionally engages in conduct," it also provides that such conduct need only "in fact, constitute a substantial step toward the commission of the crime."[2]

Section 302(a)(1) provides that conduct is "intentional" if it is a "conscious objective or desire to engage in the conduct."

Section 303(a)(1), on the other hand, provides that "no state of mind must be proved with respect to a particular element of an offense or . . . specified . . . as existing or occurring 'in fact.'"

These two sections contradict each other, thus badly confusing the definition of "attempt" as embodied in S. 1630.

This section also eliminates the common law defenses of legal impossibility and merger. Under common law, legal impossibility has constituted a defense to an attempt charge. Legal impossibility exists if the defendant did—or could do—all of the things he intended to do but nonetheless actually did not violate the law. Now, Section 1001(c)(1) provides that even if completion of the act would not violate the law, "if the crime could have been committed had the circumstances been as the actor believed them to be" then the actor is guilty of breaking the law. Thus, individuals can now be convicted of what might be termed "thought crime."

Similarly, Section 1001(c)(2) eliminates the merger defense by which an individual cannot be held legally accountable under common law for both attempting and completing a crime; the attempt was logically held to be merged into the greater offense. All of the above points raise the question of whether the attempt statute will streamline the administration of justice.[3]

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[1] A Judiciary Committee Report has not yet been issued on S. 1630.

[2] "Substantial step" is not defined.

[3] It bears noting that Section 1001(b), which provides an "affirmative defense" to attempt, contains a trap in connection with Section 1325 of the Act which makes it a crime to tamper with physical evidence. For instance, under the code, a manufacturer of a product could manufacture an item that turns out to violate some statute. While he lacked intent to violate the law, it has "in fact" occurred and he could be guilty of "attempt." Assuming he discovers the problem prior to shipping the product and proceeds to destroy it, he could be charged and convicted for tampering with physical evidence as that offense is described in the proposed Section 1325.

Conspiracy

The language of the proposed conspiracy provision, Section 1002, could be interpreted in ways which greatly expand the concept of conspiracy beyond its current meaning in common law. As written, this section could cover unilateral activity by a single co-conspirator.

Solicitation

Criminal solicitation is an entirely new concept. The definition of solicitation embodied in Section 1003 is extremely broad and subject to abuse. For example, under the common law, conduct preparatory to an inchoate offense is not criminal—one cannot be guilty of attempted conspiracy. Now, it seems, two inchoate offenses, taken together, could constitute criminal conduct.

INCHOATE OFFENSES: LIMITATIONS—NATIONAL SECURITY IMPLICATIONS

Unlike the provisions which expand federal jurisdiction, Section 1004 of S. 1630 dramatically changes the common law in a way that has grave implications for national security. The Act provides that there can be no attempt, conspiracy, or solicitation for a number of specified offenses.

Almost all of these offenses relate to the national security interests of the government or to matters affecting public order and the administration of justice. For example, attempting, conspiring, or soliciting to obstruct military recruitment, to incite mutiny or desertion, or to fail to register for the draft, among other things, would not constitute criminal activity.

Soliciting to defraud the government would also be legal. In short, unless a person participates directly in anti-government activities, he cannot be held responsible. Thus, these limitations invite pressure groups to provoke unlawful anti-government conduct without being held acccuntable for their actions.

ANTI-RACKETEERING AND RELATED PROVISIONS

A number of provisions in the bill related to anti-racketeering efforts constitute, when read together, a threat to business interests. Under Section 1802, a company could be convicted of racketeering based upon two technical securities violations simply because the definition of racketeering activity is so exhaustive.

Moreover, a new civil damage action is created by Section 4101 for anyone injured in his personal business or property by "racketeering" activity. Relief includes treble damages as well as attorney and investigative fees.

Section 4011 authorizes the Attorney General to initiate a civil injunctive proceeding to restrain "racketeering" activities. Section 4013 provides the Attorney General the additional authority to serve a Civil Investigative Demand requiring any person to produce any material relevant to the civil proceeding under Section 4011. The Attorney General may therefore obtain discovery in a civil action which can be used in a subsequent criminal action. The potential for abuse of such a powerful tool is awesome.

LIABILITY OF ORGANIZATION FOR CONDUCT OF AGENT

Section 402 of the proposed Act, which provides for criminal liability of an organization for the conduct of an agent, lacks a statutory predecessor and appears to expand the law of agency. The entire section is riddled with vague language subject to broad interpretation. It provides criminal liability for an offense if the agent's conduct: "occurs in the performance of matters within the scope of the agent's employment or authority and is intended by the agent to benefit the organization."

Three separate determinations, all subject to a broad reading, are required: is the act within the scope of employment; is it within the agent's authority; is it intended to benefit the corporation?

The latter two points are most troublesome. Under present law, a corporation may not be held criminally liable for the conduct of an agent acting with only "apparent" authority; for liability, the authority must be "actual" or "implied." This distinction is not made in Section 402. Hence, a company could specifically forbid certain conduct and, though not criminally culpable in any meaningful sense, still be branded and punished as a criminal.

Moreover, experience with the "intended to benefit the corporation" language teaches that it is subject to abuse. The conduct of an employee wholly motivated by self-aggrandizement may always be interpreted as benefiting the company in some way, even if the company is being cheated by the agent. While senior management may not have desired the dubious benefits which flow from illegal conduct, the agent will likely maintain during investigation and trial that his actions were intended to benefit the organization.

Finally, Section 402(b) holds a corporation criminally liable for the failure of its agent to perform a duty specifically imposed on an organization by law. Taking the broad range of regulatory and other duties imposed by law, together with other sections of S. 1630 which provide that reckless ignorance of circumstances is no bar to prosecution, the impact of this provision could be enormous.

In short, Section 402 is a boon to prosecutors who are politically ambitious, hostile to "big business," or hungry for the publicity emanating from indicting a corporation. The Department of Justice, moreover, has always favored expanding corporate criminal liability for the acts of agents and employees.

MURDER

The murder statute, Section 1601, significantly expands federal jurisdiction. The traditional common law terms "kill" or "killing" are replaced by the phrase "intentionally causes the death of."

In addition, under the Act murder is committed if one "engages in conduct by which he causes the death of another person under circumstances manifesting an extreme indifference to human life."

Any experienced lawyer passably aware of both criminal and product liability law must shudder at the invitation for abuse provided by the language in this section. For example, the "extreme indifference" language, as interpreted by product liability case juries, is an extremely low standard; that is, almost any corporate conduct is found to manifest an "extreme indifference."

To extend this interpretation to criminal law hardly seems to serve the public interest.

SENTENCE OF FINE

The proposed Section 2201 dramatically increases criminal fines for corporations and organizations from their current level of between $1,000 and $10,000 to $1,000,000 for a felony and $100,000 for a misdemeanor. With the myriad of federal regulations, technical violations are increasingly likely. The new high fines would impose an enormous burden on the nation's business community.

Under present law, the number of times a particular statute has been violated is often at issue in cases of alleged regulatory violations. For instance, if a company mails 100,000 copies of an allegedly deceptive advertisement on a single day, is it guilty of one violation or 100,000 violations?

Prosecutors usually claim the latter in order to increase their leverage and force a company to settlement. That power, together with the increased fine, makes it likely that companies will be forced to settle, rather than fight for their rights against the government.

ORDER OF NOTICE TO VICTIM

Section 2005 proposes to vest authority in the courts to require corporations to notify victims of corporate offenses of the company's conviction.

This section has no counterpart in current law and will constitute an open invitation to civil damage lawsuits even though the company will likely have paid a large criminal fine.

CONCLUSION

The above points are only a glimpse at the problems in S. 1630, a legislative package of monumental scope. The provisions examined, however, represent the types of changes made to existing law as well as the types of interpretive problems likely to be caused by S. 1630.

Whether the Act will accomplish its goal of streamlining criminal law to effect better and fairer criminal justice remains to be seen. What is certain, however, is that a measure as monumental as criminal code reform absolutely needs deliberate and careful consideration.

Haste, in this case, will be the enemy of responsible legislation. This is particularly true because all federal legislation of the type and magnitude of S. 1630 has a "teaching" effect on the states. Many states can be expected to use S. 1630, if adopted, as model legislation and the bill's defects will ripple across the nation.

NICHOLAS E. CALIO,
Litigation Counsel,
Washington Legal Foundation.●

REFRAMING OUR RELATIONS WITH OUR FRIENDS AND AMONG OUR ALLIES

● Mr. HART. There are few people as well qualified as McGeorge Bundy to discuss American relations with Western Europe in the field of nuclear weapons, the topic of a recent speech at the New York University Sesquicentennial Conference. By dint of his many years of experience in this area, his views are well worth reading.

At a time when the Western Alliance is in disarray, his reminder that it is "political folly" to forget our allies viewpoint or ignore their wants and needs is good advice indeed. One of his important assertions in this thoughtful exposition of the technical and political problems involved in deployment of nuclear weapons in Europe should be heeded:

The alliance today needs economic progress and political self-confidence more than it needs weapons, and among weapons, it needs conventional more than nuclear reinforcement.

I commend the full text of his address to my colleagues' attention.

The address follows:

REMARKS OF MCGEORGE BUNDY

My central proposition this evening is that in making our foreign policy choices we should think more about the interests and concerns of our friends and allies, and less about the Soviet menace, than seems to be the habit of the present Administration in Washington. My second proposition, which I shall argue much more briefly, is that getting these priorities right will also help us come to terms with ourselves in the reestablishment of some measure of natinal consensus on these hard questions. I do not mean that there is no Soviet threat, or that our allies are always right, or that there is a golden age of bipartisan virtue and wisdom just waiting for the President to flip the switch and turn up the lights. I do mean that if we can get a better understanding of our relations to those whom we see as friends and allies we shall also do better in our

relations with the Soviet Union and with ourselves.

Since I cannot hope to examine all of the relevant relationships, I propose to concentrate on one: the problem of our dealings with Western Europe in the field of nuclear weapons. The subject has the advantage for me that I have been concerned with it in one way or another for more than thirty years, so that if I get it wrong, it will not be for lack of experience. It has the advantage for you that it is now, as it has been recurrently, an issue of considerable immediate urgency. It has the advantage for all of us that it is critically important to the coherence and self-confidence of the strongest and most central of all the associations in which we have engaged ourselves since the end of the Second World War—the North Atlantic Alliance.

Last Saturday, October 11, there was a large political meeting in Bonn, perhaps the largest gathering of free Germans since John F. Kennedy went to Berlin in 1963. But whereas the people of West Berlin turned out to cheer an American leader who won their hearts by telling them he was proud to say "Ich bin ein Berliner," the 240,000 West Germans who gathered in Bonn were there to protest a plan to place new American nuclear missiles in Germany. Although the organizers of the meeting said it was aimed at both the Eastern and the Western sides of the nuclear arms competition, the major targets of crowd and speakers alike were the governments of the United States and West Germany. One does not have to agree with all that was said, or to sympathize excessively with a movement which does indeed exhibit some of the failures of political understanding that are commonly associated with the words pacifism and neutralism, to find this meeting deeply significant. Leadership in responding to the challenge this German movement presents must necessarily belong to Germans, including those in the movement itself, but this event, with the prospect of more like it in the future, gives us good reason to examine our own view of nuclear policy in relation to Western Europe.

The immediate cause and target of this powerful new tide of sentiment in Germany is the plan adopted by the NATO Council two years ago for the placement of 572 land-based mid-range thermonuclear missiles in Western Europe, some 200 of them in West Germany. These missiles are intended by their backers as a counter to Soviet deployment of new theater weapons, in particular what the West calls the SS-20, a modern, sophiscated mobile missile which can reach all of Western Europe, the Middle East, and much of Asia. According to Secretary of State Haig, speaking on arms control here in New York in July, there are already 750 warheads deployed on SS-20 launchers, and in his view—which deserves attention if not agreement not only because of his present assignment but also and perhaps still more because he was formerly Allied Commander of NATO—the SS-20 and other new theater systems have "presented the alliance with a threat of a new order of magnitude."

The missile systems designed for the new NATO force are now being built in the United States, but the plan has been the target of rising criticism in Europe. Moreover, still larger difficulties lie just ahead. At the end of next month American and Soviet negotiators will sit down in Geneva to negotiate on the question of the limitation or reduction of those systems and perhaps others that can reach Western Europe or the Soviet Union. This effort is the necessary twin to the plan for missile deployment. For the West German government and its public in particular, it is essential that both tracks be pursued with energy. In the words of Chancellor Schmidt, "Only a policy which aims at the necesary military balance at the lowest possible level—to be agreed upon jointly—can count on the public's full approval . . . Our people expect preparation for the stationing of American medium-range weapons to be accompanied by the active implementation of the second part of the dual decision" [1]—namely the arms control part.

Chancellor Schmidt does not overstate the desires and expectations of Europeans, and not only of those who openly oppose the proposed deployment. Given the strong European desire to see this question negotiated away, and the widespread belief that the new American Administration is unenthusiastic about arms control, there would be considerable danger of a split between Europeans and Americans even if the issues that will be put on the table were simple and even if the Soviet Government were full of eagerness to ensure the unity of NATO. Neither conditions holds. The Soviet desire to split the alliance is one of the most obvious and durable constants on the international political scene—not a cause for resentment, merely a fact of life—but what is more interesting is that as presently framed the Geneva negotiations will be extremely hard for our side, simply in terms what we and our allies can agree on.

Because there is indeed a substantial Soviet advantage in the special field of theater-range missiles, and because there is growing division among Europeans over the urgency and desirability of the new American weapons of this class, it will be very easy indeed for Moscow to make proposals that will be unacceptable to the American government and those who agree with it in Europe, but highly appealing to others.

Secretary Brezhnev has already offered a freeze on both sides; he could go further and propose some unilateral Soviet reduction in return for cancellation of the NATO plan. So great are his current numerical advantages within this particular field that he can easily design an offer bound to look generous to many in Europe and still retain such advantages that on its present premises Washington would feel bound to reject his proposal. It is not often that the alliance has offered so obvious an invitation for Soviet trouble-making. Only the considerable likelihood of Soviet rigidity and clumsiness currently stands between NATO and a substantial self-inflicted wound.

Paul Nitze, who will sit for the United States at Geneva, is a practiced and expert negotiator who can be relied on to point out the more obvious flaws in Soviet proposals, but as long as the negotiation remains framed as the NATO decision itself has framed it—limited to Soviet and American theater-range missiles—the prospect for an American position that is persuasive to European doubters will be poor. The very best we can look for, as matters stand, is a negotiation which will only slowly erode the NATO decision. If he is both lucky and skillful Mr. Nitze may be able to buy time. But unless the time is used to find a better posture, the prospects for maintaining NATO's unity on this issue are dim.

But if we are to do better, we must understand things better. We must go back and see what it is that the proposed new American missiles are supposed to do, how the original intent of the proposal has been lost sight of, and why it is that when carefully considered the proposal is neither necessary nor desirable for the safety of the alliance, unless the nations of Western Europe themselves clearly support it.

The basic premise for the proposed new force was that without it, primarily because of the new effectiveness of the SS-20, the Soviet Union would have a new capability for nuclear attack on Europe against which the West required a new and balancing counter. Without such a new counter, it was argued, and in particular without new American weapons clearly dedicated to this task and deployed on European soil, the Soviet Union would be able to threaten Europe, at a moment of intense crisis or of calculated Soviet aggression, in a way that would be politically effective because the Europeans would feel disconnected from the American nuclear protection which has been an essential element of the alliance for thirty years.

But this basic premise was quite simply wrong. The SS-20 did not and does not give the Soviet Union any nuclear capability against Europe alone that she did not have in overflowing measure before a single SS-20 was deployed. Not only were the existing SS-4s and 5s, though old and cumbersome, entirely adequate in themselves for threatening a nuclear attack on Europe, but what is much more important, every long-range Soviet strategic missile that can reach the United States can also hit Europe. There are so many of these missiles—some 2500—and they have so many large warheads—some 7000—that less than 10 percent of the force could produce all the results in Europe that could ever be feared from the SS-20. And this calculation, like the usual NATO discussion of the threat from the SS-20, leaves out of account three other new and mid-range systems now entering the Soviet inventory.

It is not clear to me why this obvious and wholly undeniable capability has been generally ignored by Western analysts. Possibly Americans have been blinded by their own natural preoccupation with what the Soviet long-range missiles mean as a threat to the United States, and still more possibly they may have supposed—and here they may even be right—that Soviet military planners would be bureaucratically disinclined to assign long-range weapons to short-range targets. And European analysts may have found it comfortable to assume that long-range missiles are simply not intended for them.

But whatever the cause of the omission, it is flagrant, and it has led to a gross exaggeration of the meaning of the SS-20. Quite without that weapon the nuclear armory of the Soviet Union is more than adequate for the execution of a separate nuclear attack on Western Europe, or any part thereof, while maintaining in reserve strategic forces fully adequate to balance those of the United States. If the Soviet Union should ever reach a political determination to strike Europe without striking the United States, it would have all the weapons it needed without the SS-20. Any danger there may be of any such action is quite literally independent of the existence of the weapon that the West has spent so much time advertising. Indeed the case is, if only marginally, stronger still. If the Soviet Union were ever really prepared to run the risk of general war that would accompany any major attack on Western Europe, might her leaders not suppose that conceivably their ability to persuade the Americans to hold back their own forces would be increased, not lessened, by diverting to Europe some of the long-range strategic missiles that have worried some of our own planners so much?

That is probably not the way the Soviet leaders think, you may reply, and I would agree with you; but all I am saying is that in terms of real forces and real risks the idea of a separate nuclear war with Western Europe must be just as attractive or unattractive to the Soviet leaders (and I believe it is most unattractive to them) without the SS-20 as with it. The SS-20 simply does not change the balance of danger in Europe.

The underlying reality is that the location, the range, and even the vulnerability of particular weapons systems do not define either

[1] Helmut Schmidt, "A Policy of Reliable Partnership," *Foreign Affairs*, Spring 1981, p. 748.

the capabilities or the intentions of any nation which, like the Soviet Union and the United States, has built multiple long-range nuclear systems with an enormous redundance of survivable warheads. For such nations, capabilities remain varied and overwhelming even when whole systems are subtracted (which is why the notion of any early "window of vulnerability" related to the U.S. Minuteman is quite simply inane). Moreover, the capabilities of strategic systems are defined not by the mindsets of their designers or advocates, nor by the planning processes at staff levels in Omaha or Brussels or Moscow or Washington. Capabilities are defined by what these systems, or parts of them, can actually do if they are so commanded. The ineluctable reality is that long-range systems can hit middle-range targets; they have that capability. Thus when you have vastly more than "enough" for intercontinental strategic deterrence, as both sides do today, you have more than enough for smaller assignments too. On this quite basic point the simplistic analyses of some nuclear planners, both in NATO and elsewhere, have been deeply misleading to their political superiors.

As with capability so with intent. In a world of strategic nuclear redundancy political intention is constrained not by the capabilities of particular opposing systems but by the absolutely inescapable risks attendant upon any use of nuclear weapons that might trigger a reply. No one can be absolutely sure that a major Soviet attack on Western Europe would provoke an American strategic reply—but no one, given the existing levels of American commitment and American troops in place, can possibly be certain that it would not. This uncertainty is absolutely inescapable, and in Europe it applies to a large-scale conventional encounter as well as to a Soviet nuclear attack. The certainty of this uncertainty is what deters the men of sanity on both sides, and if it needs some marginal reinforcement in NATO today, that need is mainly in the field of conventional troops and weapons.

But even if the SS–20 has changed nothing except perceptions that can themselves be changed by a more careful look, you may suggest to me that there can still be advantage in thickening the American nuclear presence in Europe. You may be right; even divorced from the SS–20, the argument can be made that the very presence of such weapons makes their possible use an additional deterrent—or that their presence would show to Europeans some new and comforting evidence of American determination—or that the emplacement of these weapons would confer some needed capability not otherwise available.

Let me begin with capabilities. Is there anything we want to be able to do that only these 572 warheads can do? The answer to this question is suggested in what I have already said about the extent of present Soviet and American capabilities. With a single important exception there is nothing the new warheads can do that cannot be done as well by other systems that we already have or plan to have. Like the Soviet Union, we have long-range weapons in numbers grossly beyond and basic deterrent need; we can assign a few of them to NATO missions just as readily as we might assign the new NATO missiles. Nor does the location of the weapons make any difference from the American standpoint. Whether they are based in Germany, or at sea, or in Nebraska, there will always be the same awful magnitude in any Presidential decision to use these weapons against anyone, and in particular against the Soviet Union, whose leaders know as well as we do whose command would send them, and where to direct the reply. Thus there can be no American interest in letting it be thought by anyone that we would ever find it easier to fire at the Soviet Union from Europe than from the United States. The misperception that we may think this way is fueling much of the current opposition in Europe.

There is indeed one thing some of the new missiles can do that no other weapon can do, but it is something we should not want to be able to do. The Pershing II missiles—there are 108 in the plan—can reach Russia from Germany in five minutes, thus producing a new possibility of a supersudden first strike—even on Moscow itself. That is too fast. We would not like it if a Soviet forward deployment of submarines should create a similar standing threat to Washington. It is not for us to be the ones who first put the decapitation of the great rival government on a hair trigger. It is deeply in the general interest of all that neither side should pose such threats to the other. The 1979 decision to place the Pershing II in Germany was a serious mistake. Either its range should be so reduced that it does not threaten Moscow, or it should be cancelled.

Leaving the new Pershing to one side because of this grave defect, there remains one important argument for the remainder of the new force, the ground-launched cruise missiles: our allies may in fact want them. These at least are not plausible first-strike weapons because they move at less than the speed of sound, and they can reasonably be seen as replacements for theater-based aircraft less able to reach their NATO targets than they once were. We have other systems that could do those jobs. Long-range missiles and aircraft could be assigned to NATO in wholly adequate numbers—as indeed five Poseidon submarines now are—with no harm to the basic deterrent strength of our enormous and still growing strategic triad. Still there is no decisive argument against the cruise missiles if in fact our European friends are sure they want them. We should not hold back on this part of the agreed deployment if that is indeed the settled will of our European allies.

But neither should we make the acceptance of these weapons a test of loyalty to the alliance. Because they are American weapons, there has been a natural requirement for American leadership in planning for their deployment, but it is quite another matter for Americans to presume to decide which systems and which locations are most needed to provide confidence to Europeans. Yet that is the way too many Americans, in and out of government, have been talking. One need not admire all the arguments of European opponents of this deployment to understand the resistance to any plan which comes to look like an American device for fighting a nuclear war in Europe alone. We cannot possibly adopt any such policy, of course—if only because of the certainty of uncertainty. But it is folly—political folly, the folly of forgetting how friends and allies may think and feel—to let it look as if we had any such idea.

If we must not presume to decide this question for our friends, neither should we presume that it is decided by a single rally in Bonn, however large and well organized. The Europeans who have supported the new deployment are neither few nor feeble, and the agreement of 1979 is not to be abandoned if indeed this new force, with the Pershing II modified or omitted, is still wanted by Europeans. But it would be all wrong for Americans to use the advantage of ownership to press for a single solution when there are many to choose from. We must think in terms of what Europe wants and needs, and not in those of a mechanical matching of every Soviet move. Soviet nuclear procurement policy is not so sensible that we should imitate it blindly, nor so threatening that we need to believe our own enormous forces are weak. A strategic modernization much more modest than President Reagan's recent proposals can meet the needs of both ourselves and our allies, with or without new land-based missiles in Europe.

There are, of course, other needs in the alliance, and other friends to be considered in our foreign affairs. The alliance today needs economic progress and political self-confidence more than it needs weapons, and among weapons it needs conventional more than nuclear reinforcement. The problem of making and keeping friends in the Middle East is even harder, and I doubt if we make progress by suggesting that we intend to control the internal choices of the peoples and leaders on the spot. There is also obvious peril in supposing that what should be decisive in every Central American policy choice is the presence or absence of Russians or Cubans. We have an interest in respecting what is though on such matters by friends in Mexico and France, and we should have learned long ago that merely to be anti-communist is not necessarily to be a good partner for this democracy. But these are topics for another time, and I will claim only that in varied ways the general moral I have drawn from the case of the nuclear defense of Europe applies more broadly: the real interests and concerns of our friends are a better guide to policy than the natural but childish desire to make a tit-for-tat response to everything the Russians do.

Such respect for friends and allies can also help us with ourselves. The challenge of foreign policy is not simply, as men and women have thought too often in the last four Administrations, to reverse the softness or hardness, or even the indecision, of predecessors. The challenge is rather to choose courses that can unite us by their visible combination of strength and restraint. There is no durable majority for any foreign policy based on simple single-minded hostility to, or accommodation with, the Soviet Union. We learned that lesson first when we wisely shifted our emphasis in moving from the Truman Doctrine to the Marshall Plan. The same imperative—and the same opportunity—lies open today.

There is one further point that may be appropriate to this anniversary celebration, with its combination of respect for the past and concern for the future. When we think about nuclear weapons, we must always remember that the object of the thought, for all of us of whatever opinion, must be to help to see to it that these weapons are not used. I entirely agree with my friend Dean Rusk who has recently remarked that the most important single fact in the history of the last thirty-six years is that these weapons have not been used since Nagasaki. The ugly paradox of making weapons so as not to have to use them—of strength for deterrence—I believe we must accept, but we do not for that reason have to think that more is always better. And beyond that, there is no safety in leaving the matter to specialists. The danger is a common danger, and there can be no escape in the end from the requirement of common understanding. I believe myself that when such understanding is achieved we shall find that this is not a time for panic, but rather for confidence, and that we are not about to enter a time of special danger—unless we lose our own nerve. What we need most is simply to understand these matters better, and so I do not apologize for having troubled you with them this evening.

Let me end with some words spoken by Robert Oppenheimer more than thirty years ago, at an earlier time of asserted crisis:

". . . wisdom itself cannot flourish, nor even truth be determined, without the give and take of debate or criticism. The relevant facts could be of little help to an enemy; yet they are indispensable for an understanding of questions of policy. If we are wholly guided by fear, we shall fail in this time of crisis. The answer to fear

cannot always lie in the dissipation of the causes of fear; sometimes it lies in courage." [2]●

SENATOR JOHN GLENN AND ARMS CONTROL

● Mr. TSONGAS. Mr. President, late last month, Senator JOHN GLENN visited my home State of Massachusetts as the Martin Weiner Distinguished Visiting Lecturer at Brandeis University. The subject of Senator GLENN's address was controlling the growth and spread of nuclear weapons.

His address is both thoughtful and timely. When our allies in Europe are growing restive with the administration's anemic arms control policy and confused NATO strategy, the Senator from Ohio speaks clearly and decisively on the urgent necessity of strategic and theater arms control agreements. On the perils of linking arms control with Soviet behavior, he is eloquent:

We cannot afford to wait for peace before seeking to control the weapons of war.

On nuclear proliferation, a subject he knows very well, Senator GLENN warns that:

Unless we act quickly to keep this deadly future from unfolding, our children will inherit a world where there is no rest, no stability and no real security.

This is an important speech. Mr. President. It sets out a compelling and convincing vision for U.S. policy on nuclear arms issues. I recommend it highly to my colleagues and request that it be reprinted in the RECORD at the conclusion of my remarks.

The address follows:

REMARKS OF SENATOR JOHN GLEEN

Tonight marks my first visit to the campus of Brandeis University. And I've truly been looking forward to it—not only because of your uniqueness in being America's only Jewish-supported nonsectarian university—but also because Brandeis has long been regarded as one of this Nation's most prestigious centers of higher education. Much of the credit for that reputation, of course, must go to men like Chairman Foster, Chancellor Sachar and President Bernstein, for they have tirelessly worked to perpetuate the lofty ideals upon which this school was founded. But tonight, let us also recognize the equally important contribution made by people like the late Martin Weiner, whose name is memorialized in the title of this lectureship series. For without their generous financial gifts, it would be extremely difficut to sustain the academic excellence that has been a Brandeis trademark since 1948.

So it's a very special honor to be here tonight, and I look forward to hearing—and learning—from you as we exchange ideas in the question and answer period that will follow my formal remarks.

Exactly one month ago today—on September 29th—a ram's horn was blown to signal the start of Rosh Hashana. In modern times, the blowing of the shofar reminds Jewish worshippers that the Day of Atonement is fast approaching. But in ancient times, the shofar also signalled an alarm to the Biblical tribes of Israel—warning them of the approach of an enemy. Tonight, I too wish to sound a warning—a warning not about the approach of an enemy, but about the growth and spread of nuclear weapons. Now I know that many people believe the subject of arms control to be complex, esoteric and what I sometimes describe as a "MEGO" issue—one on which "my eyes glaze over." But that is an intellectual luxury we cannot afford. Because in my opinion, the world today is literally sitting on a nuclear time bomb. And unless we act to defuse it, it may well explode, taking us and all of civilization with it.

Obviously, all sane men want to avoid such a catastrophe. But if we are to avoid stumbling into a nuclear nightmare, it will be necessary to come to grips with some very fundamental facts. Perhaps the most fundamental fact of all is that meaningful arms control negotiations will not result from luck or wishful thinking. Good intentions are not enough; they must be supplemented with a clear-eyed understanding of how arms control fits within a wider foreign policy agenda. So our first task is to construct something we have lacked for far too long in this country—a well-defined and coherent foreign policy—one that recognizes arms control as one of its most vital components.

What are some of the other elements of a comprehensive foreign policy? Well, in a frequently hostile and dangerous world, a strong military and a sound defense strategy must surely comprise one element. But military strength—important as it is—cannot be the only one. In today's world, effective and compassionate international economic programs must also be an integral part of U.S. foreign policy. So must consistent diplomatic efforts—and so must a reasonable plan for combatting the systematic violation of human rights—irrespective, I might add, of whether those violations are the work of "authoritarian" of "totalitarian" governments. And underlying all of these diverse considerations should be a realistic vision of what goals and objectives are desirable—and possible—in both the short and longer terms.

Peace, for example, is clearly a worthy foreign policy objective in and of itself. But is peace to become our sole international objective? Can it be our sole objective? Or does a single-minded effort to preserve the peace often generate the kinds of conditions that lead to war? Should we try to influence developing nations in the direction of democracy and market economies? Or has that become impossible in the modern world—and should we therefore merely sit as silent spectators to global change? These are difficult questions. In fact, many experts say that we can't possibly answer them. But if so, I believe that in itself is a crucial decision that must be made. And until our policy-makers begin grappling with issues like these, we will be condemned to a foreign policy future that remains confused, vacillating and unpredictable.

Nowhere would that be more dangerous than in the foreign policy area I want to explore tonight—controlling the growth and spread of nuclear weapons. For as long as these arsenals continue to multiply and become ever more available, each crisis of the moment could well become the last crisis for all mankind.

PAST ARMS CONTROL EFFORT

Now, I need not dwell this evening on the awesome destructive power of nuclear weaponry. Today's generation of college students has literally grown up in the shadow of the nuclear threat. You are familiar with the terminology—ICBMs, megatons, MIRVS and overkill. You have heard the casualty estimates: more than 100 million Americans—and at least that many Soviets—would die within the first 24 hours of a full-scale nuclear exchange. And you know that after a nuclear war, as former Soviet Chairman Khrushchev once put it, "The survivors would envy the dead." In short, the advent of atomic weaponry has fundamentally altered the parameters of warfare—and has raised the question of whether our politics can grow up to our technology.

Past efforts to control the weapons of war were generally unsuccessful. Disarmament and arms control were the stuff of which dreamers fantasized and fanatics dreamed. But as we move deeper into the nuclear age, arms control has become a necessity. And the fanatics are those who now talk of "winning" a nuclear war—as if the poisoned winds from an incinerated earth could somehow reveal a winner.

In the late 1940s, America moved—through the Baruch and Lilienthal proposals—to meet the nuclear challenge by proposing to place all atomic materials and technology under permanent international control. Unfortunately, the Soviet Union rejected that proposal, and soon detonated their own atomic device, thus ending America's short-lived nuclear monopoly. Within a few short years, Britain, France and China had also established their memberships in the nuclear club.

In short, the genie was now out of the bottle. And with the development of peaceful uses for atomic power, a growing number of other nations came to covet a nuclear capability. The problem, however, was quickly apparent: the only difference between atoms for peace and atoms for war is the intent of the user.

The danger of burgeoning nuclear stockpiles among the superpowers was now compounded by the danger of worldwide proliferation among smaller and smaller nations whose sense of restraint was highly suspect. This alarming prospect led, in the 1960s, to a second American initiative for international control—the Nonproliferation Treaty. 115 countries—including 112 nations that have not yet developed nuclear weapons—eventually signed the agreement. Nonweapons states which signed the Treaty agreed not to acquire them. In return for assistance in establishing peaceful atomic programs, they also agreed to open their facilities to inspection by the International Atomic Energy Agency. These inspections are designed to ensure that there is no diversion of nuclear materials to weapons production.

For their part, the United States and the Soviet Union agreed to begin negotiations to reduce their own nuclear arsenals. In other words, arms control is now proceeding along a dual track: Smaller states agree to forego the weapons option while the superpowers try to reduce their own nucelar stockpiles.

THE SALT PROCESS

It was that promise that led Washington and Moscow to begin the discussions that came to be known as SALT—the Strategic Arms Limitation Talks. By 1972, SALT had yielded its first major success; a treaty that sharply limited both the number of delivery vehicles each side could process, as well as the deployment of antiballistic missile systems. The SALT I Treaty was universally acclaimed not only for its specific benefits—important as they were—but also because it had finally demonstrated that meaningful arms control was both possible and practical.

The success of SALT I paved the way for SALT II—negotiations that optimistically aimed not just a capping—but at truly reversing—the nuclear arms race. That optimism, however, proved sadly premature, for technology again had set a blistering pace. Tremendous advances in missile modernization—such as the ability to equip single missiles with multiple warheads—outstripped the gains of further limits on strategic launchers.

[2] This statement was made on Mrs. Franklin Roosevelt's program "Round Table" on February 12, 1951, and reprinted in *The Bulletin of the Atomic Scientists*, Vol. 6, No. 3, March 1950, p. 75. I owe the quotation and the reference to Robert Gilpin, *American Scientists & Nuclear Weapons Policy*, 1962, p. 342.

But even more devastating for SALT II was the fact that we found ourselves unable to adequately verify or monitor Soviet compliance with the terms of the Treaty. For Senators like me, such a situation was simply unacceptable.

Unlike the United States—where foreign governments need only subscribe to the Congressional Record and Aviation Week Magazine to find out what we're up to, Soviet society is closed and their decision-making is secretive. That makes U.S. intelligence-gathering extremely difficult. And where America's existence may be at stake, I don't think we can afford to accept on faith that the Soviets won't cheat. As we seek to lower the nuclear danger, we must never lower our guard.

It was the issue of verification—combined with the discovery of Soviet combat troops in Cuba and the invasion of Afghanistan—that finally prompted President Carter to urge a delay in the Senate's consideration of the SALT II Treaty.

Today, SALT II remains in limbo—and the SALT process itself is being called into question. Former Senator Jacob Javits, for instance, expressed deep disappointment that SALT II accomplished so little. And he publicly warned that another protracted round of negotiations that did not result in significant arms reductions would meet certain defeat in the halls of Congress. I share Senator Javits' concern, for confidence is quickly eroded when herculean efforts give birth to marginal results.

ARMS CONTROL AND THE REAGAN ADMINISTRATION

But I am equally troubled by the present Administration's approach to arms control. Many of the President's advisors seem to believe that where strategic weapons are concerned, the only good negotiations are no negotiations. Other Administration officials claim to support negotiations, but at some point in the future and certainly not now. Still other Presidential advisors have advocated reductions so massive that the Soviets are sure to refuse. History has shown that true arms control progress requires time, patience and steadfastness of purpose. Grandstand plays to achieve overnight breakthroughs simply won't work. Indeed, they are usually counter-productive. Recently, the President himself has spoken of changing the name of the process from "SALT" to "START"—signifying Strategic Arms Reduction Talks. Obviously, only the President knows what he has in mind. But if by START he really means STOP, the outlook for progress is extremely grim.

I am also bothered by insistence on a strict linkage between arms control and Soviet international behavior. Please do not misunderstand me. I, too, am greatly concerned about growing Soviet adventurism. Indeed, it is difficult not to be concerned when you look at what the Soviets have recently been up to. First, there was Angola and the additional use of Soviet surrogates in Africa, Asia and the Middle East. Then came the Soviet takeover of the so-called "Northern Territories" just north of Japan. Finally, there was the full-scale invasion of Afghanistan—an act of aggression so naked that even socialists were outraged. And let us remember that most of these activities occurred before the Soviets achieved nuclear parity with us. We can only speculate on what new Soviet adventures are in the offing.

But while I am disturbed by Soviet aggression, I reject the notion that we must not negotiate until they learn to behave. Failing to discuss arms control with Moscow will not deter it from future transgressions. Only the military strength and the political resolve of potential victims can do that. But even more important, we cannot afford to wait for peace before seeking to control the weapons of war. And neither can we wait for good Soviet behavior, because bad behavior armed with increasing numbers of nuclear weapons is more dangerous still.

I am also unimpressed with Administration arguments that we must delay arms control until we have closed the so-called "window of vulnerability." In the first place, I seriously question whether our land-based strategic weapons are, in fact, vulnerable. But vulnerable or not, why must arms control and a strong military posture be regarded as mutually exclusive? In my view, they are mutually necessary. That is particularly true with regard to America's conventional forces, because years of neglect have reduced our preparedness to dangerous levels.

In that connection, let me say that I am greatly disappointed with this Administration's apparent willingness to continue playing budget games with national defense. Despite all campaign rhetoric to the contrary, the President seems intent on repeating the same kind of short-sighted mistakes committed by his predecessor. In fact, the 1982 Reagan defense budget is now perilously close to being even lower than that proposed by President Carter. Fiscal responsibility is surely important. But where America's national security is concerned, a balanced Federal budget is simply no substitute for an adequate defense.

So I am far from unmindful of our conventional and strategic requirements. But just as we cannot allow our defense needs to be determined by the size of the Federal deficit, neither should we allow arms control to languish until those needs have been met. Let us resolve to spend what we must—and negotiate what we can.

POLICY PRESCRIPTIONS

Let me illustrate what I have in mind by briefly outlining five recommendations on arms control policy.

SALT II

The first thing we must do is tell the Soviet Union that we want the SALT process to proceed—and that we want it to proceed now. This would doubtlessly require new negotiations to update the SALT II Treaty, but whatever modifications are necessary should be completed quickly. President Reagan should then move expeditiously to secure Senate ratification—something that should not be difficult if he energetically dedicates himself to the task. Without committing myself to support Treaty changes sight unseen, let me say that I am now inclined to support the SALT II agreement as previously negotiated. My earlier concerns regarding verification have largely been met through subsequent improvements in our monitoring capability. And so long as we can verify Soviet compliance, the strategic constraints imposed by SALT II comprise a necessary first step in our journey towards SALT III.

TNF

In addition to ratifying the SALT II Treaty regarding intercontinental missiles, we must move ahead next month with talks concerning intermediate range weapons—the so-called Theatre Nuclear Forces. Because these shorter-range missiles are located on European soil, it is imperative that we carefully coordinate our position with our NATO allies. Unfortunately, it appears that that coordination has so far been less than complete—and I strongly urge the Administration to take whatever steps necessary to resolve this problem before negotiations begin a month from tomorrow. For as the recent marches in Bonn, London, Rome and elsewhere have vividly demonstrated, the stability of the NATO alliance may hang in the balance.

CONVENTIONAL DEFENSES

Third, I believe it is vital that we and our allies work to build up our conventional defenses, for they are an important consideration in our strategy for nuclear weapons control. Halting the erosion in our non-nuclear military strength is crucial for a variety of reasons. But among the most important is that conventional weakness invites undue reliance on nuclear deterrence. Should conflict come—despite our best efforts to prevent it—we must not be forced to choose between surrender and annihilation. And neither should we forget that our success in persuading other nations not to acquire nuclear weapons largely rests on our willingness and ability to limit the possible use of our own.

NONPROLIFERATION

And that brings me to my fourth recommendation: A redoubled effort to halt the proliferation of nuclear weapons. The urgency of this effort cannot be overstated, for upon our success depends the only future our children will have.

Although international accords like the Nuclear Nonproliferation Treaty and U.S. laws like the Nonproliferation Act of 1978 were steps in the right direction, it is clear they have not solved the problem. Someone once said that the difference between idealists and pessimists is that idealists say all nations should share the atomic bomb, while pessimists fear that they will.

Well, these days there is surely ample reason for pessimism. Because in addition to the five "charter" members of the nuclear club, India has already exploded a nuclear device, Israel can, and Iraq, Libya and Pakistan are also apparently committed to bomb-building programs. Other countries with adequate technical know-how to pursue the nuclear option include South Africa, Taiwan, South Korea and Brazil.

Think what it would mean to have so many fingers grasping the nuclear trigger. Think of the unparalleled opportunities for irresponsibility; for terrorism; for accident; and for miscalculation. Unless we act quickly to keep this deadly future from unfolding, our children will inherit a world where there is no rest, no stability and no real security.

That's why I've made nonproliferation one of my top priorities since I came to the Senate almost seven years ago. I coauthored the Nuclear Nonproliferation Act of 1978. Last year, in the wake of India's refusal to abide by the provisions of that Act, I waged an unsuccessful fight on the Senate floor to stop President Carter from sending nuclear fuel to India's Tarapur atomic power plant. And this year, I am outraged that the Reagan Administration wants to weaken even further the nonproliferation laws we've fought so hard to achieve. So last week—over strenuous Administration opposition—I managed to push through an amendment to the Foreign Assistance bill that requires the termination of all foreign aid to India and Pakistan if they conduct any future nuclear explosions. In my view, the next five years are absolutely crucial. So rather than slacken our resolve, I believe that this is the time to stiffen it.

First, I propose that we immediately press for consultations among nuclear-exporting nations to establish truly meaningful restrictions on nuclear trade with potentially dangerous countries. Second, we must plan and call for a World Conference on Nuclear Energy Policy—and use this conference to find new agreements that could be incorporated into the existing Nonproliferation Treaty. Third, the United States must determine what restrictions on nuclear trade are minimally acceptable—and then use whatever leverage we have with other suppliers to obtain their adherence to those standards. And fourth, we must be prepared to use whatever measures necessary—including the possible termination of all foreign aid and economic assistance—against any nonweapons state that persists in developing a nuclear weapons program.

SALT III

But even if we prevent further scattering of nuclear weapons, ratify the SALT II Treaty, reduce Theatre Nuclear Forces and enhance our conventional military strength —even if we do all these things, our task still will not be complete. We must also devise a strategy that promises real long-term reductions in the nuclear stockpiles of the two superpowers. Without this, there will be steadily diminishing public support for arms control negotiations.

So my fifth and final recommendation is that we begin to think seriously about where the SALT process is going.

The SALT I and SALT II negotiations were conducted within a narrow conceptual framework—a framework that has now become outmoded by technological advancement. In the past, we have contended ourselves with counting reducing each side's missile launchers, while largely ignoring the qualitative improvements that have increased our collective capacity for destruction. Specifically, I am referring to the tremendous advancements in MIRV technology that have geometrically increased the number of warheads that each side can deliver. To paraphrase a popular bumper sticker, launchers don't kill people, warheads kill people. And if we can't find a way to significantly reduce them, future arms control efforts will bring forth little of consequence. So let us expand our vision, renew our approach and explore new directions. And then let us move boldly toward a SALT III agreement.

CONCLUSION

Let me conclude my remarks with one final thought. Tonight I have addressed a few of the challenges that confront us in the area of nuclear weaponry. That they are formidable goes without saying. Meeting them in a diverse and frequently hostile world will be far from easy. But we are not helpless before our task and need not be hopeless of our success. Because on the subject of nuclear war, there are common interests that bind friend and foe together. In the final analysis, as a young American President reminded us almost 20 years ago, we all inhabit the same small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal.

So let us not despair. Peace need not be impractical and nuclear war need not be inevitable. Though mankind's future may lie beyond our vision, it is not completely beyond our control. Our fate—and that of other nations as well—is the work of our own hands, matched to reason and principle. So to paraphrase President Kennedy, let us go forward in the work of peace, asking His blessing and His help, but knowing that here on earth, God's work must truly be our own.

Shalom, my friends, and thank you.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Thomas Melia of the staff of Senator MOYNIHAN to participate in a program sponsored by the Graduate School of American Studies of Tamkang University in the Republic of China from November 22 to December 2, 1981, to discuss matters of mutual interest and international relations.

The committee has determined that participation by Mr. Melia in the program in the Republic of China, at the expense of Tamkang University, is in the interests of the Senate and the United States.●

DR. THOMAS SOWELL

● Mr. EAST. Mr. President, there are few commentators on the American scene today who endow their remarks with as much logic and wit as Dr. Thomas Sowell. A senior fellow at the Hoover Institution, a nationally known scholar, and the author of brilliant books, Dr. Sowell is to be commended for his outspoken candor and his contributions to human knowledge.

Proponents of the free enterprise system are particularly indebted to him. More than any other living writer, Dr. Sowell has established that far from being an instrument of oppression, free enterprise has been an avenue of opportunity for all people—even for members of minority groups commonly regarded as its chief victims.

In one of his earlier works, "Classical Economics Reconsidered," Dr. Sowell emphasizes that "one of the curious facts about the classical economists is that most of them were members of minority groups." Adam Smith, Malthus, the two Mills, and J. R. McCulloch were Scotsmen who lived in England at a time when most Englishmen agreed with Samuel Johnson: "There is much that can be done with a Scotsman—if he be catched young." Similarly, David Ricardo was of Jewish ancestry, and Jean-Baptiste Say was descended from Huguenots who had fled France during religious persecutions.

In a recent "My Turn" column for Newsweek magazine, Dr. Sowell further elaborates on this point. I ask that this column be printed in the RECORD, and I would like to note at this time that Dr. Sowell is a native of Gastonia, N.C.—a fact of which the people of our State are proud.

The column follows:

WE'RE NOT REALLY "EQUAL"

(By Thomas Sowell)

As a teacher I have learned from sad experience that nothing so bores students as being asked to define their terms systematically before discussing some exciting issue. They want to get on with it, without wasting time on petty verbal distinctions.

Much of our politics is conducted in the same spirit. We are for "equality" or "the environment," or against an "arms race," and there is no time to waste on definitions and other Mickey Mouse stuff. This attitude may be all right for those for whom political crusades are a matter of personal excitement, like rooting for your favorite team and jeering the opposition. But for those who are serious about the consequences of public policy, nothing can be built without a solid foundation.

"Equality" is one of the great undefined terms underlying much current controversy and antagonism. This one confused word might even become the rock on which our civilization is wrecked. It should be worth defining.

Equality is such an easily understood concept in mathematics that we may not realize it is a bottomless pit of complexities anywhere else. That is because in mathematics we have eliminated the concreteness and complexities of real things. When we say that two plus two equals four, we either don't say two what or we say the same what after each number. But if we said that two apples plus two apples equals four oranges, we would be in trouble.

SENSE

Yet that is what we are saying in our political reasoning. And we are in trouble. Nothing is more concrete or complex than a human being. Beethoven could not play center field like Willie Mays, and Willie never tried to write a symphony. In what sense are they equal—or unequal? The common mathematical symbol for inequality points to the smaller quantity. But which is the smaller quantity—and in whose eyes—when such completely different things are involved?

When women have children and men don't how can they be either equal or unequal? Our passionate desire to reduce things to the simplicity of abstract concepts does not mean that it can be done. Those who want to cheer their team and boo the visitors may like to think that the issue is equality versus inequality. But the real issue is whether or not we are going to talk sense. Those who believe in inequality have the same confusion as those who believe in equality. The French make better champagne than the Japanese, but the Japanese make better cameras than the French. What sense does it make to add champagne to cameras to a thousand other things and come up with a grand total showing who is "superior"?

When we speak of "equal justice under law," we simply mean applying the same rules to everybody. That has nothing whatsoever to do with whether everyone performs equally. A good umpire calls balls and strikes by the same rules for everyone, but one batter may get twice as many hits as another.

In recent years we have increasingly heard it argued that if outcomes are unequal, then the rules must have been applied unequally. It would destroy my last illusion to discover that Willie Mays didn't really play baseball any better than anybody else, but that the umpires and sportswriters just conspired to make it look that way. Pending the uncovering of intricate plots of this magnitude, we must accept the fact that performances are very unequal in different aspects of life. And there is no way to add up these apples, oranges and grapes to get one sum total of fruit.

Anyone with the slightest familiarity with history knows that rules have often been applied very unequally to different groups. (A few are ignorant or misguided enough to think that this is a peculiarity of American society.) The problem is not in seeing that unequal rules can lead to unequal outcomes. The problem is in trying to reason backward from unequal outcomes to unequal rules as the sole or main cause.

There are innumerable places around the world where those who have been the victims of unequal rules have nevertheless vastly outperformed those who were favored. Almost nowhere in Southeast Asia have the Chinese minority had equal rights with the native peoples, but the average Chinese income in these countries has almost invariably been much higher than that of the general population. A very similar story could be told from the history of the Jews in many countries of Europe, North Africa and the Middle East. To a greater or lesser extent, this has also been the history of the Ibos in Nigeria, the Italians in Argentina, the Armenians in Turkey, the Japanese in the United States—and on and on.

CONFUSED TERMS

It would be very convenient if we could infer discriminatory rules whenever we found unequal outcomes. But life does not always accommodate itself to our convenience.

Those who are determined to find villains but cannot find evidence often resort to "society" as the cause of all our troubles. What do they mean by "society" or "environment"? They act as if these terms were self-evident. But environment and society are just new confused terms introduced to save the old confused term, equality.

The American environment or society cannot explain historical behavior patterns found among German-Americans if these same patterns can be found among Germans in Brazil, Australia, Ireland and elsewhere around the world. These patterns may be explained by the history of German society. But if the words "environment" or "society" refer to things that may go back a thousand years, we are no longer talking about either the causal or the moral responsibility of American society. If historic causes include such things as the peculiar geography of Africa or of southern Italy, then we are no longer talking about human responsibility at all.

This does not mean that there are no problems. There are very serious social problems. But that means that serious attention will be required to solve them—beginning with defining our terms.●

LAND AND WATER CONSERVATION FUND

● Mr. MOYNIHAN. Mr. President, I am extremely disappointed that the conferees on the Interior and related agencies appropriations bill agreed to eliminate all Land and Water Conservation Fund assistance for State and local governments in fiscal year 1982. Not reduce funding, mind you, from its 1981 level of $175 million, but eliminate it.

Funding for this vitally important component of the Land and Water Conservation Fund is being eliminated despite the fact that the Senate Appropriations Committee restored $102.3 million for State grants during its consideration of this bill. We are told that this is only a 1-year moratorium, but even a 1-year moratorium will disrupt the operations of State and local parks throughout the Nation.

New York has received $172 million from this program since 1965, and that money has been used to enhance recreational facilities from the Broadway malls in Manhattan to an ice skating rink in Fulton. The Land and Water Conservation Fund State assistance program is a partnership between the Federal Government and State and local governments, and the Federal Government's withdrawal from this partnership will have a profound effect on the quality of our Nation's parks. The impact of this cut, unfortunately, does not stop there. Over 1,000 New Yorkers are in danger of losing their jobs at various park sites around the State as a result of the action taken by the Interior conferees.

Although we have received assurances that this will only be a 1-year moratorium, the suspicion exists that the administration may not request funding for State and local participation in the Land and Water Conservation Fund for fiscal year 1983. This would be a tragic mistake, for the successes of this program are well documented. I fully expect, however, that this 1-year moratorium is just that; a 1-year suspension of State and local assistance and not a termination.

Mr. President, I ask that an article from the November 16 New York Times detailing the effect the elimination of these funds will have on the State of New York be printed in the RECORD.

The article follows:

FEDERAL FINANCING FOR STATE'S PARKS CUT FROM BUDGET

(By Deirdre Carmody)

All $15.4 million in Federal funds for New York State parks has been eliminated as part of the Reagan Administration's budget cuts, according to the State Parks and Recreation Commissioner.

"What is the degree of the cut?" said the Commissioner, Orin Lehman. "It isn't 30 percent, it isn't 50 percent. It's 100 percent."

The cuts, which Mr. Lehman described for the first time in an interview, have eliminated all four programs through which the state received Federal assistance for its parks in the past. Besides the $15.4 million received last year, the cuts will cost the state more than 1,000 federally financed park jobs, some of which have already been phased out.

JONES BEACH PROGRAM HARD HIT

One of the hardest-hit programs is the six-year, $26 million rehabilitation of Jones Beach that was announced by Governor Carey last year. The Federal Government had been scheduled to provide half the money. The Jones Beach project is considered important because facilities are deteriorating and badly in need of repair while attendance keeps growing.

Many other projects throughout the state will have to be abandoned or seek funds elsewhere. These include pocket parks, tennis courts, rehabilitation projects, sewer lines, swimming pools, dams and athletic fields.

Money provided by the Federal Land and Water Conservation Fund in the past ranged from $860,000 for rehabilitation of the Broadway malls in Manhattan to $360,000 for an ice skating rink for the town of Fulton in Oswego County.

The elimination of Land and Water Conservation Fund grants, which have provided New York State with $172 million since 1965, is the most drastic cut. Over the years, these funds have gone to more than 1,000 state and local parks and recreation projects. The money for these grants came from offshore oil leases.

"The fund was originally set up because Congress realized that most Americans use their own local parks or state parks more than they use the national parks; it was set up to help the states and communities and enhance outdoor recreation," Commissioner Lehman said in an interview. "It was considered a partnership between the Federal Government and the states."

Some of the programs, such as the Young Adult Conservation Corps, began being phased out several months ago. Other cuts went into effect on Oct. 1, with the start of the 1982 Federal fiscal year. The combination of budget cuts was completed Nov. 5, when a Senate-House conference committee eliminated the Land and Water Conservation Fund.

SEEKING A BOND ISSUE

Commissioner Lehman said that the cuts would be so detrimental to maintenance of the state parks system that he was "hopeful" the Governor and the Legislature could be persuaded to put a parks preservation bond issue on the ballot next year.

"We are hopeful that the Governor and the Legislature might see fit to have a park preservation bond act in 1982," Mr. Lehman said. "We've checked it with some of the people in the Governor's office. They've encouraged us to go ahead. They've said, 'Bring us your plan and we'll see.' "

He said that the proposed bond issue would be "in the $400 million area." Recreation bond issues have been approved by the voters of New York State since the first one was proposed by Gov. Alfred E. Smith in 1924.

In addition to the Land and Water Conservation Fund, the other programs that have been eliminated are:

The Urban Park and Recreation Recovery Program, which had awarded a total of $11.7 million in grants to New York State since 1978. Nineteen cities and five counties were eligible for these funds.

The Comprehensive Employment and Training Act, known as CETA, under which the State Parks Department was able to employ 650 workers, who were paid with Federal funds. These unskilled workers did painting, cleanup, conservation and restoration jobs.

The Young Adult Conservation Corps, a federally financed employment program that provided the state last year with 360 workers aged 16 to 33. These workers repaired structures, built camps, fixed picnic areas and did other similar jobs.

ASKING FOUNDATIONS TO HELP

To mitigate the effect of the cuts, Commissioner Lehman said, the state is now "going heavily after foundations, corporations, and friends' groups" to take over some of the projects.

He pointed out that the Reagan Administration had said from the beginning that little money would be available to build new parks. He said, however, that New York State had been way ahead of the Administration, having decided seven years ago not to spend money on acquiring new land, but to use funds to take care of the existing parks.

Parks officials point out that the parks have never been as popular as they are now, because people have more leisure time and are preoccupied with health.

BUILT DURING DEPRESSION

Many of the facilities in the state were built during the Depression and are in serious need of maintenance and repair, the officials said.

In addition, as the economy bites more and more into people's purses and it becomes more expensive to travel, people are staying home and using their local parks. Recreation has also become a year-round pastime. As a result, golf courses that were once deserted when they were covered with snow have now become cross-country skiing areas, and parks that were empty during the winter are now used year-around by joggers.

"We do understand the frustration of the American public with taxes, waste and inefficiency," Commissioner Lehman said. "I don't think anyone objects to eliminating that and we know that budgets have to be cut. What we object to is being shut out."●

A SALUTE TO HARBEL'S JODY LANDERS

● Mr. SARBANES. Mr. President, for the last decade one of Baltimore City's most successful community organizations has greatly benefited from the committed hard work and skill of a young man who has seen Harbel grow from what one writer called "a com-

munity's impossible dream to an organization composed of 81 neighborhoods, an areawide reputation and an $840,000 budget."

Joseph T. Landers, better known as Jody, has served Harbel in various capacities from volunteer to executive director. Many years ago, he was appointed to this important post in an organization uniting northeast Baltimore communities when he was only 24 years of age. Under his leadership, the revitalization of these communities has continued to grow and today Greater Northeast Baltimore is one of the finest places to live in the Nation.

To all who would understand how Baltimore has gained a national reputation for revitalization and community involvement I commend Jody Landers' comments when asked to what did he attribute his success:

If Harbel is successful, it's because this is a stable hardworking community.

The folks who live here care; they get involved with their neighborhood improvement associations and church groups. That's why it works: dedicated leaders, folks who come out of the woodwork with a commitment.

And if I'm successful, maybe it's because I'm never defensive; I'm willing and ready to accept anybody without preordained notions. There's no chip on my shoulder, I don't take criticism personally.

And I am really committed to this community. The northeast area is one of the finest places in which to live.

Mr. President, when asked in the same interview how he would like to be remembered Jody Landers replied "as a sincere person who was able to get things done." Fortunately for Baltimore Jody Landers has gotten things done and I am pleased to note that he will continue to get things done. While he is leaving Harbel, he will remain active in our community on the staff of the United Way, working for all of central Maryland on behalf of a number of worthwhile agencies and organizations.

Jody Landers is one of those especially committed and dedicated people who help to build strong communities. I join his many friends in thanking him for his extraordinary contribution.●

THE DISTRICT OF COLUMBIA APPROPRIATION BILL CONFERENCE AGREEMENT, 1982

● Mr. DOMENICI. Mr. President, the conference agreement on H.R. 4522, the District of Columbia Appropriation bill for fiscal year 1982, provides new budget authority of $0.6 billion. This level is identical to the Senate-passed bill level and $37 million above the House-passed level. It is consistent with both the District of Columbia Appropriation Subcommittee's allocation under the first budget resolution and the President's September request.

Mr. President, I ask that a table showing the relationship of the conference agreement to the congressional budget and President's budget request be printed in the RECORD at the conclusion of my remarks.

The table follows.

H.R. 4522, District of Columbia Appropriation Bill Conference Agreement, 1982

[In billions of dollars]

	Fiscal year 1982	
	BA	O
Outlays from prior-year budget authority and other actions completed	---	0.03
H.R. 4522, Conference Agreement	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
Senate-passed level	0.6	0.5
House-passed 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
Senate-passed level	---	---
House-passed level	+0.1	---
President's March request	---	−0.1
President's September request	---	---

THE SOCIAL SECURITY NOTCH

● Mr. BAUCUS. Mr. President, recently one of the major newspapers in my home State of Montana printed an editorial on the social security notch and criticized Congress for creating an inequitable benefits formula in the social security program. This notch refers to the difference in benefits payable to retirees who were born before December 31, 1916, and those born after that date.

Because I share the concern of those editors that all Americans should be treated equally by Government programs, I asked the Congressional Research Service to analyze the situation. It is clear to me from that analysis that the discrepancy between benefits payable to retirees of different ages results from an effort by Congress to avoid punishing current recipients for the inadequacies of the pre-1977 benefit formula in the face of changing economic conditions.

Mr. President, I ask that the editorial, from the Billings Gazette, September 22, 1981, and the report by CRS be printed in the RECORD.

The material follows:

AN EQUAL TREATMENT FARCE

If Congress makes any pretense at equal treatment under the law it will do something immediately to correct a gross injustice it committed in 1977.

That injustice was done in one of its Social Security revisions which put the royal shaft to those persons who were born after Dec. 31, 1916.

With equal earnings, the worker born Jan. 1, 1917 and thereafter will be drawing about $1,300 a year less in Social Security than the one who was born Dec. 31, 1916.

It wasn't budget hatchet man David Stockman or President Ronald Reagan who performed this highly discriminatory deed. It was the Congress of the U.S. which allowed such a one-sided bill to become law.

Who are these discriminated against American wage earners? They are the kids who grew up in the depression only to be the first to be drawn into World War II. They are the ones who were called back on active duty to serve in the Korean War.

They have paid Social Security all of their working lives only to find when retirement faces them the Congress kicked dirt in their faces.

The Congress allows pay bills to pass which increase those of the military on active duty—a move which automatically gives monthly pension and retirement check increases to the career soldier and the reservist who has reached 60.

President Reagan wants an increase for civilian federal employees, a move which will correspondingly boost the pay of retired government workers.

None of this sits too well with the private sector worker who now is told he or she will get only 86 percent of the Social Security retirement pay of somebody born a year or two before. And it gets more unfair in subsequent years as more and more is taken out of the paycheck.

If cuts must be made in the Social Security system to keep it solvent then at least let them be shared equally by all recipients.

As stated earlier, Congress enacted the laws creating this monstrous inequity. We call upon Montana's Congressional delegation to take a lead in correcting this injustice.

THE SOCIAL SECURITY NOTCH

As a result of changes made to the social security benefit formula in the 1977 Social Security Amendments, the initial benefit amount for some persons who reach age 62 after 1978 might be somewhat lower than for workers with similar earnings histories who reached age 62 in 1978 or earlier. The term "social security notch" refers to a substantial difference in initial benefit levels that sometimes occurs because of a small difference in age, i.e., between workers who become eligible before and after the new changes went into effect.

In the Social Security Amendments of 1977, Congress took steps to prevent social security benefits from rising to excessive levels in the future. If the old benefit computation rules had been left unchanged, benefit levels eventually would have exceeded pre-retirement earnings levels for many individuals retiring in the future. This rise in the level of newly awarded benefits that began after the automatic benefit increase provision was enacted in the early 1970's and which was projected to continue in the future, was largely unintended. In 1977, Congress made substantial changes in the way social security benefits would be computed in the future to prevent this situation from continuing.

In recognition of the fact that some individuals would be disadvantaged by the remedial provisions, Congress did not change the computation rules for persons who had already become eligible. Further, Congress allowed for a transitional period during which individuals becoming eligible for retirement benefits in the near future would receive benefits computed under the old rules (with some limitations) if they would be higher than benefits arrived at under the new rules. This transition guarantee applies to all individuals who became age 62 during the period 1979 to 1983.

One of the transition limitations was a

provision that for people entitled to the guarantee, any earnings after age 61 would not be considered in determining benefit amounts under the old method. Those earnings would be considered if the new method were used.

The so-called "notch" usually refers to the difference between benefits for (1) individuals who turned 62 before 1979 and continued to work beyond their 62nd birthday, and (2) those who turn 62 after 1978 and also continue to work beyond their 62nd birthday. The former individual has his benefits computed under the old rules and his earnings after age 61 factored into the benefit formla (which results in higher benefit amounts). The latter individual has his benefits computed under the new rules, or under the old rules if higher, but without having his earnings after age 61 taken into account (resulting in lower benefit amounts). Thus, to take an extreme case, an individual who retires on December 31, 1981, on his 65th birthday, would get higher benefits than an individual who retires on January 2, 1982, on his 65th birthday, even if the two had the same earnings throughout their working lives. The difference between benefits computed under the old rules and the new rules will be greatest for workers who delay their retirement until well after age 62 (see chart).

The fact that these people are entitled to noticeably different benefit levels simply because of their small difference in age, is often referred to as a "notch" effect. In other words, because the affected worker happens to be one month or maybe one year younger than another similarly situated worker, his benefits might be lower, and he usually argues that this is unfair. However, it should be noted that the "notch" has resulted from a conscious decision on the part of Congress to reduce benefit levels below those which would otherwise have been payable, and the lower benefit levels that now prevail were not unexpected. What was unexpected is that benefit levels for individuals whose benefits are computed under the old rules would have risen as much as they did in the last few years, making the "notch" somewhat greater than had been anticipated when the benefit computation changes were enacted in 1977. This is primarily the result of the recent adverse economic conditions under which inflation has been driving up benefits for people covered by the old rules by much higher amounts than anticipated. In effect, people whose benefits are computed under the old rules have a greater than intended advantage over those who have to use the "transitional" or new computation rules.

COMPARISON OF INITIAL SOCIAL SECURITY BENEFIT AMOUNTS FOR VARIOUS RETIRED WORKERS IN IDENTICAL CIRCUMSTANCES EXCEPT DATE OF BIRTH[1]

	Born in December 1916 (subject to old rules)	Born in January 1917 (subject to new rules)	Difference
Workers retiring at age 62 in January 1979:			
Minimum wage	$206.70	$203.50	−$3.20
Average wage	312.80	306.50	−6.30
Maximum wage	395.70	388.90	−6.80
Workers retiring at age 63 in January 1980:			
Minimum wage	254.00	242.30	−11.70
Average wage	388.90	365.00	−23.90
Maximum wage	493.50	463.10	−30.40
Workers retiring at age 64 in January 1981:			
Minimum wage	324.00	298.20	−25.80
Average wage	500.30	449.40	−50.90
Maximum wage	635.70	570.10	−65.60
Workers retiring at age 65 in January 1982:			
Minimum wage	400.10	355.30	−44.80
Average wage	623.70	535.40	−88.30
Maximum wage	789.90	679.30	−110.60
Workers retiring at age 66 in January 1983:			
Minimum wage	459.10	401.90	−57.20
Average wage	731.60	605.10	−126.50
Maximum wage	920.00	771.60	−148.40
Workers retiring at age 67 in January 1984:			
Minimum wage	534.00	458.70	−75.30
Average wage	836.80	691.50	−145.30
Maximum wage	1,065.70	890.00	−175.70

[1] Future benefit amounts shown have been calculated under Intermediate II-B assumptions from the 1981 report of the Board of Trustees of the social security system. All benefit amounts have been rounded according to rounding rules in effect before the Omnibus Budget Reconciliation Act of 1981. Under new rounding rules all benefit amounts will be somewhat smaller; however, differences between benefits to workers born before and after Jan. 1, 1917, will not change significantly.

Source: Social Security Administration, September 1981. ●

OPPOSING ELIMINATION OF HOME MORTGAGE DEDUCTIBILITY

● Mr. HEFLIN. Mr. President, I today speak out in favor of Senate Resolution 238, the sense of the Senate resolution sponsored by Senator LLOYD BENTSEN that urges the Senate Finance Committee to reject any attempt to eliminate or limit the deductibility of home mortgage interest payments.

I commend my friend and colleague from Texas for his foresight and leadership in this matter and I am pleased to be a prime cosponsor of this important measure.

Mr. President, I am strongly and unalterably opposed to any change in the current tax laws on interest deductibility for home mortgages. Any such proposal would have a devastating effect on the housing industry and on millions of Americans who dream of one day owning their own homes.

This ill conceived and dangerous proposal is making its presence known by rather ominous rumblings within the walls of this Chamber and from within the White House.

With mortgage interest rates at 17 percent and rising, fewer than 5 percent of the potential home-buying market in this country can afford to purchase a home today. This is threatening the average citizen's chances of ever fulfilling the American dream—especially those millions of young people who are just entering the work force and are beginning their families.

Throughout our history owning one's own home—a decent place to live and raise a family—has been a cherished part of the American dream. Tragically, for millions of young people in this country today, that dream of homeownership has turned into a nightmare.

Mr. President, the extremely wealthy will always be able to purchase their own homes. Any proposal to eliminate the tax deductibility of home mortgage interest payments will severly punish the average middle-income American who needs the tax break owning a home offers to be able to afford to purchase his or her own house.

Mortgage interest deductibility is the only real tax break available to the average middle-income American. This proposal would have a devastating effect on the average American citizen who has scrimped and saved to come up with a downpayment and who is now struggling to meet monthly payments swollen by inflation and high interest rates.

If the tax break for homeownership was eliminated, million of Americans now purchasing homes would not be able to survive financially and those who want to buy a home would never be able to fulfill their dreams.

Mr. President, we are in the midst of the deepest and most prolonged housing slump since the 1940's. Unemployment among construction workers and others involved in homebuilding is now at 17 percent—twice the national unemployment average. Any proposal that would eliminate this crucial tax deduction would deal a death blow to the important housing industry.

The tax break for homeownership is an integral part of our Federal tax policy—and represents a longstanding national commitment to homeownership for nearly 70 years. This is a commitment to the average middle-income American that we simply cannot afford to risk.

Mr. President, I strongly support Senate Resolution 238 which instructs the Senate Finance Committee to refuse to even consider any proposal which would eliminate or limit the tax deductibility of home mortgage interest payments.

Again, I commend and thank my friend and colleague from Texas for his leadership in this important matter and I urge the immediate consideration and passage of Senate Resolution 238.

Thank you, Mr. President.●

JUDICIAL INDEPENDENCE: PART I

● Mr. BAUCUS. Mr. President, the genius of America's form of government is its complex system of checks and balances. By creating three independent branches in their new government—Congress, the courts, and the executive—the Founding Fathers tried to make sure no single person or group could ever gain absolute control over the entire government.

This principle has survived two turbulent centuries in a growing nation. Now, however, a disturbing threat has appeared. The separation of powers between the three branches is being challenged by some who disagree with recent Supreme Court decisions on the

so-called social issues: abortion, school prayer, and school busing.

Opponents of these decisions, chiefly the new right, thus far have failed to gain passage of constitutional amendments overruling the Court. So, they are trying to remove these issues from the jurisdiction of the Supreme Court and lower Federal courts.

More than 20 such bills are before Congress this year. One would prohibit Federal courts from deciding abortion cases. Another would take away the Supreme Court's jurisdiction over cases involving school prayer. A third would prevent court action on school busing disputes.

Contrary to the claims of their proponents, these measures would not outlaw abortion and school busing or legalize school prayer. The only result would be the Supreme Court would no longer provide a uniform, national interpretation of the Constitution. Instead, State courts would be given the last word on these matters.

Supporters of these bills argue that the Supreme Court acted unconstitutionally in deciding these cases by usurping congressional authority. However, I believe these bills are an unconstitutional attempt to address that concern. Even if the Supreme Court acted unconstitutionally, Congress should not prescribe an unconstitutional cure. After all, two wrongs do not make a right.

The critical question is not whether a Supreme Court decision is constitutional, but who decides whether it is. Since 1803, the Court has fulfilled that function.

The court jurisdiction bills are a radical departure from that basic American tradition. They are based on the theory that simple majorities of Congress should be able to determine which constitutional rights are to be protected. That is not what our Founding Fathers had in mind.

Mr. President, these court jurisdiction bills raise very serious constitutional and public policy concerns. Many of these concerns have not been adequately considered by the Congress. Over the next few weeks, I hope to raise some of these concerns and share with my colleagues materials that I believe should be reviewed before they take further action in this area.

Today I wanted to share the official views of the American Bar Association. Earlier this year, the ABA resoundingly endorsed a resolution opposing these court jurisdiction proposals. The statement in support of their position is an excellent analysis of the impact of these bills on our system of government. I ask that the report be made a part of the RECORD at this point.

The report follows:

REPORT WITH RECOMMENDATION

RECOMMENDATION

Be it resolved, that the American Bar Association opposes the legislative curtailment of the jurisdiction of the Supreme Court of the United States or the inferior federal courts for the purpose of effecting changes in constitutional law.

Report

Before the 97th Congress are more than a score of bills which would strip from the original jurisdiction of the lower federal courts certain subject areas involving controversial decisions of the Supreme Court of the United States, notably abortion, school prayers, and busing. Enactment of such legislation would require persons claiming rights under one or another of these decisions to bring suit in state courts. Moreover, several of these bills would deny the Supreme Court appellate jurisdiction to review the decisions of the state courts with respect to those issues that could be brought only in the state courts.

Sponsors of these bills clearly avow that their purpose is to bring about an altering of the constitutional interpretations that now prevail. The belief is apparently that state courts, if given exclusive power to decide such suits without fear of Supreme Court review, will not follow the precedents established in these areas by the Nation's highest Court.

The Committee recommends to the Association the adoption of this resolution because of one overriding conviction: the necessity to protect the integrity of the courts of this Nation, federal and state, from misdirected legislative efforts to achieve something that can be done only through constitutional amendment. The issue is not abortion; it is not busing; it is not prayer in the public schools; it is not any of a number of things that may occasion dissatisfaction with particular decisions. We are sure that the Members of the Association have many various positions on these substantive questions, as we do. But the real issue, the only issue, is whether, as a matter of policy and of constitutional permissibility, this Nation is going to adopt a device whereby each time a decision of the Supreme Court or a lower federal court offends a majority of both Houses of Congress the jurisdiction of the Federal Courts to hear that issue will be stripped away. We do not believe that is a system the Framers intended nor one that we should strive to institute.

Supreme Court decisions interpreting the Constitution establish binding precedents which are subject to alteration by the people through the process of constitutional amendment. The Framers provided in Article V a means of changing the Constitution and deliberately made it difficult to achieve. The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, with the requirement of extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. Are we to believe that after constructing this formidable barrier to easy change, the Framers intentionally or inadvertently also put in place a system in which simple majorities could bring about a rewriting of constitutional law?

The American Bar Association has long opposed efforts, from whatever spectrum of the political scene, to alter constitutional interpretation through means other than constitutional amendment. We stood in opposition to the "Court-packing" plan of the later 1930's, which would have altered prevailing law by stacking the Court's membership. More than thirty years ago we called for the adoption of assurance that jurisdictional manipulation would not and could not be used to work substantive changes in the Constitution. In 1958, the Association opposed bills pending in Congress that would have denied the Supreme Court of decisions involving alleged subversives in various fields. That policy is Association policy today and the Committee calls on the House to reaffirm it and extend it.

Central to this position is recognition of the great power which Congress possesses under the Constitution to structure and to allocate the jurisdiction of the Supreme Court to hear appeals and the jurisdiction of the lower federal courts—and of the limits on that power. Article III stipulates that the High Court has appellate jurisdiction over practically the entire range of federal judicial matters, subject to such "exceptions and regulations" as Congress provides. Clearly, then, Congress may regulate how cases come to the Court and could deny the Court appellate jurisdiction over some classes of cases altogether, as in fact it has historically done. It could, for example, make a lower federal court's decisions with respect to interpretation of the tax laws or admiralty issues final.

Even greater is Congress' power with respect to the lower federal courts. The compromise at the Constitutional Convention was to create "one Supreme Court" and to leave in legislative discretion whether and when to create and to do away with any "inferior" federal courts. Some of the Framers wanted constitutional assurance of lower courts, but the prevailing number thought that Congress should be able to leave to state court adjudication matters of national interest, subject to Supreme Court review. And to safeguard the national interest and the integrity of constitutional rights, the Framers wrote in Article VI, the "Supremacy Clause," the guarantee that the Constitution, federal laws, and treaties would be the "supreme law of the land" and that "the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding." Moreover, the same Article requires state judges, as well as all other state officers, to be bound by oath or affirmation to support the Constitution of the United States.

Necessarily, it follows that if the Constitution empowers Congress to provide or not to provide for lower federal courts, it empowers Congress to vest in such lower federal courts that it creates all or only some of the jurisdiction it could give and thus to allocate between state and federal courts the judicial power of the Nation in such ways as it deems to serve the best interests of the States and the Nation. That has been the understanding from the beginning on which Congress has acted and the decisions of the United States Supreme Court are consistent in affirming the correctness of that understanding.

It is thus not with any reservations with respect to congressional power generally that the Committee recommends this resolution. Rather, we are actuated by specific constitutional reservations, more substantial as to Supreme Court appellate jurisdiction than as to lower federal court jurisdiction, and by what we believe to be compelling policy considerations against the propriety and desirability of the bills now pending before Congress.

Even were the constitutional considerations compellingly clear in favor of the validity of these bills, as they are not, we would urge opposition.

First, if it is likely, as we by no means concede it is, that the meaning ascribed to a constitutional provision can be changed by the simple device of divesting jurisdiction from one set of courts and giving it to another, then indeed we have a Constitution writ on sand and the integrity of our amending process is eroded. It is central to our fundamental Charter that ordinary legislation can be changed through ordinary legislation and the Constitution only through amendment. We should resoundingly reject the counsel of those who tell us there is another way. Down that route lie barely-hidden hazards to constitutional governance.

Second, to accept the explicit judgment of the sponsors of these bills that shifting jurisdiction will result in substantive change requires us to dishonor the thousands of state judges who by oath and conscience are bound to adhere to established precedent enunciated by the Supreme Court. We do not doubt that the great majority of state judges

will do their duty. Nonetheless, this legislation is pernicious in concept even if it does not achieve its purpose.

It is bad because it suggests state judges will depart from their oaths. It is bad because it constitutes a congressional invitation to them to depart from their oaths; it says to state judges that Congress believes some decisions are so wrong they ought to be changed and those judges should do it. It is wrong because hundreds or thousands of state judges who are subject to periodic elections will be put in peril. The same interest groups that extract from an elected Congress jurisdictional alterations will demand from elected state judiciaries that they accept the congressional invitation to change. Federal judges are insulated from this and other pressures; the Framers deliberately provided for independence to prevent just these pressures. Congress should not subject state judges to often hard choices between oath and career.

Finally, if most state judges honor their oaths, the status of the objected-to constitutional decisions will be frozen in place. The Supreme Court cannot hear such cases and perhaps overrule them or alter them in any way. And as new fact situations arise, state court interpretations will begin to create somewhat different rules which will vary from State to State.

Third, either because of disagreement with the substance of these decisions or because of electoral pressures, some state judges may indeed accept the invitation of Congress and refuse to follow Supreme Court precedent. Because there would be no Supreme Court review, in those States federal constitutional law would change and the Constitution would mean something different from State to State.

This result would be pernicious because fundamental liberties—whether the ones which are the subjects of these bills or others in the future if these succeed—will have been altered in some States and depreciated in all because of the demonstration that, contrary to what we have always believed, constitutional rights are subject to evanescent majority opinion. While the constitutional rights at peril today may not be valued by some, those at peril tomorrow may be freedom of speech, or just compensation for property taken for public use, or the guarantee against impairment of the obligation of contracts.

Even were Congress to adopt an approach, which is found in a few of the pending bills, of depriving the lower federal courts of jurisdiction and continuing Supreme Court review of state court decisions in those areas, we believe that should be opposed as well. Basic to that effect would be a conclusion that alteration of substantive law could still be achieved which contains the same insult to state judges and the same possible injury to them. Supreme Court review could always alleviate some of the problem should some state judges depart from precedent, but the High Court's caseload is such that it could insure adherence to precedent only by taking an inordinate number of state cases in these areas to the neglect of its many other functions in interpreting national law.

Certainly, in the absence of Supreme Court review, the command of the Supremacy Clause that the Constitution be the "supreme law of the land" could become a nullity. Since the adoption of the Judiciary Act of 1789, a constant feature of the history of federal court jurisdiction in this country, upon which the Nation continues to depend, has been the review by the United States Supreme Court of state court interpretations on questions of federal constitutional law. If, as Justice Holmes reminded us, a page of history is worth a volume of logic, that singular fact stands as a practically unanswerable argument against jurisdictional legislation that would remove Supreme Court review of state court interpretation of the Constitution.

With regard to the constitutional validity of these bills, the Committee doubts that, with respect to the Supreme Court's appellate jurisdiction, they can be sustained as proper "exceptions and regulations" and we have reservations about the bills' divestitures of lower federal court jurisdiction as well.

Numerous arguments have been addressed to the question, some based on theories of the "essential functions" of the federal courts, some on equal protection concepts governing the decision to restrict jurisdiction over certain disfavored issues, but we believe the correct analysis to be grounded upon what limits the Constitution itself places upon congressional exercise of any of its granted powers. The Constitution explicitly authorizes Congress to make exceptions to the Supreme Court's appellate jurisdiction and implicitly to determine what, if any, jurisdiction the lower federal courts are to have. Proponents of these bills read these authorizations not only as if they are plenary powers but as if they are completely unrestrained. But this cannot be so. The Constitution authorizes Congress to regulate interstate commerce, to tax, to spend money, to create a postal system. None of these powers is conferred in language that then says, "but you cannot regulate commerce to deny the right to transport political literature across state lines," or "but you cannot bar from the mails newspapers that oppose the position of the majority in Congress." Rather, these powers are conferred in the manner in which Chief Justice Marshall described the commerce power in *Gibbons* v. *Ogden*. "This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, other than are prescribed in the constitution."

Just so is the power to structure jurisdiction. It is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations, *other than are prescribed in the Constitution*. And what is prescribed in the Constitution? The First Amendment, the Fourth Amendment, and the Fifth Amendment, and all the other limitations upon the powers conferred on Congress in other parts of the Constitution obviously are those limitations. They restrain the power of Congress to legislate with respect to other constitutional provisions under granting clauses which would appear on their face to be unlimited. To construe the congressional power to structure jurisdiction the way the proponents would construe it would be to make it the only power conferred on Congress that is beyond the constraints of other provisions of the Constitution. Obviously, this cannot be so.

Important to this issue is the fact that while the authorization to Congress to structure the jurisdiction of the courts is contained in the body of the Constitution adopted in 1789, the relevant limitations are in the Bill of Rights, proposed and adopted in 1791, which are operative as to all of Congress' powers conferred in the Constitution itself. Thus, even if the Framers in the Convention did not conceive of the jurisdictional powers being limited, although it is likely they did, adoption of the Bill of Rights did so limit them. Madison, we must remember, stated in the House of Representatives on June 8, 1789, that the amendments he proposed would not be "parchment barriers" to federal action, because "independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights."

No Supreme Court precedent stands in the way of this reading. The *McCardle* case (1869) is of limited value, not only because it arose in the context of post-Civil War radicalism, but because, as the Court plainly stated, it did not bar all access to the Supreme Court but only one avenue of appellate review. Within three years of *McCardle* the Court in the *Klein* case (1872) held unconstitutional an attempted exercise of congressional power over its jurisdiction for the purpose of nullifying the President's pardoning power. Certainly, *McCardle* lends support to the proponents of these bills but far less support than they pretend.

The only complexity that enters into the argument is that when Congress removes from the jurisdiction of the federal courts an issue it does not by that act alone violate one of the constitutional constraints. That is to say, when it denies to the lower federal courts and to the Supreme Court authority to hear a suit arising out of the institution of a prayer in the public schools, it does not establish a religion. The establishment clause is violated when some state or local authority imposes a prayer requirement and a state court refuses to follow Supreme Court precedent and to strike down the imposition. But just as Congress could not itself violate the establishment clause it cannot authorize the States to violate the establishment clause. The authorization when acted on in the jurisdictional context would violate the establishment clause and could not validly prevent exercise of the Supreme Court's appellate jurisdiction to give a remedy for the violation. The congressional jurisdiction provision would be void.

We think it plain that the Constitution thus bars a manipulation of the Supreme Court's appellate jurisdiction for the purpose of effecting substantive changes in constitutional law. More difficult is resolution of the issue when what Congress enacts takes from the federal and gives to the state courts jurisdiction to entertain such suits subject to Supreme Court review. Theoretically, High Court review should prevent effectuation of the forbidden constitutional change and save the statute. But it may be that the practical difficulties of Supreme Court review do not allow for adequate protection of constitutional rights under the circumstances. It may be that state legislatures would restrict state court jurisdiction and powers to afford adequate relief or to process cases that can be taken to the Supreme Court with sufficient promptness to protect rights. It may be that other unforeseen situations arise. In that eventuality, can it be doubted that serious constitutional questions would arise?

Because the policy considerations are so substantial and because the constitutional propriety of these bills is open to such serious reservations, we urge the House to adopt as the position of the Association a simple, forthright policy: to oppose the curtailment of the jurisdiction of the federal courts for the purpose of effecting constitutional change that is properly the province only of the amending process. Irrespective of the subject involved and regardless of our individual beliefs with respect to any of them, the overriding consideration is that we support the integrity and independence of federal courts, whether we agree with particular decisions or not, and that we support the integrity and inviolability of the amending process.

We ask reaffirmation of the principle that Elihu Root, leader of the American bar, enunciated in 1912. "If the people of our country yield to the impatience which would destroy the system that alone makes effective these great impersonal rules and preserves our constitutional government, rather than endure the temporary inconvenience of pursuing regulated methods of changing the law, we shall not be reforming, we shall not be making progress, but shall be exhibiting . . . the lack of that self-control which enables great bodies of men to abide the slow process of orderly government rather than to break down the

barriers of order when they have struck the impulse of the moment."

In Number 78 of *The Federalist*, Alexander Hamilton explained that federal judges had been given the maximum degree of independence and protection possible because they had a critical function to perform. They must assure, he said, that the limitations on legislative authority are enforced. "Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."

We do not believe the great rights set out in the First, Fourth, Fifth, and other provisions of the Constitution "amount to nothing." We deem it critical to their continued meaningfulness that these bills under consideration and others like them be defeated.

Respectfully submitted

Richard R. Bostwick, W. Gibson Harris, Elaine R. Jones, Johnny H. Killian, Hon. Harry Phillips, Hon. H. Barefoot Sanders, Irving R. Segal, Benjamin L. Zelenko, Edward I. Cutler, Chairman.●

GANNETT CANADIAN OPERATIONS

● Mr. SYMMS. Mr. President, on November 7 the Wall Street Journal published an article detailing some information about the Gannett Co.'s acquisition of certain Canadian firms. The New York-based Gannett Co. owns and operates the Idaho Statesman in Boise, Idaho. Since the details of the agreements reached with the Canadian Government by Gannett, the largest newspaper publisher in the United States, have not received wide coverage in the Idaho media, it is likely that many Idahoans would find the Wall Street Journal article of some interest.

I ask that the article be inserted in the RECORD.

The article follows:

[From the Wall Street Journal, Nov. 2, 1981]

GANNETT MAKES CANADIAN COMMITMENTS IN RETURN FOR ACQUIRING TORONTO FIRMS

OTTAWA.—Canada's government authorized Gannett Co. to acquire a large Canadian outdoor billboard enterprise after the U.S. company made some potentially far-reaching Canadian business commitments.

The transaction is expected to rankle Washington, which has protested that the Canadian government is unfairly extracting undertakings from non-Canadian companies as the condition for allowing them to make investments in Canada.

The Gannet transaction involves three Toronto-based companies, Mediacom Industries Inc., Mediacom Inc. and C. D. Maintenance Services Ltd. The companies were owned by Combined Communications Corp., a Phoenix-based company that was acquired by Gannett in 1979.

The takeover of the three Toronto companies was subject to review under Canada's Foreign Investment Review Act even though Gannet had acquired their parent company.

The government rejected two earlier applications by Gannett to take over the companies, which are known as the Mediacom Group and which the U.S. concern said form the largest outdoor billboard advertising enterprise in Canada.

The government said it approved Gannett's third application after the company improved previously proposed undertakings. The company's commitments include a pledge to buy from Canadian suppliers for three years the bulk of the newsprint required for a new U.S. national newspaper.

Gannett, a communications company, ranks itself as the largest newspaper publisher in the U.S. in both circulation and in total number of newspapers. It currently has 84 daily newspapers and is in the process of acquiring the 85th.

A Gannett spokesman in Washington said a final decision on whether to produce the new national general-interest paper won't be made for two or three months. It would be launched in 1982 and would be printed at several locations by satellite-linked plants.

The company also pledged to work with the federal government's Department of Industry, Trade and Commerce to identify Canadian companies able to supply Gannett's needs for other goods and services on a competitive basis.

The government said Gannett will study the feasibility of a "major investment" in a Canadian newsprint mill. The Gannett spokesman declined to elaborate on the project.

Another commitment requires the company to study for possible use the Telidon communications system which was developed by the federal government. Such systems allow subscribers to summon a wide variety of information stored in computer data bases for display on slightly modified television screens. Gannett has promised not to purchase any competing system until it has completed its study of Telidon.

In yet another commitment, Gannett will transfer to General Systems Research Ltd., Edmonton, Alberta, all of its patents, drawings and equipment relating to laser technology developed by a Gannett subsidiary. Gannett will receive about $14 million in return.

The government said the transaction will advance GSR's laser research programs by at least two years, permitting earlier development of sophisticated laser equipment for industrial use.

The government said Gannett also has promised to maintain its extensive relationship with Canadian financial institutions.

A U.S. government official noted that the Gannett transaction was the latest in a succession of announcements involving heavy obligations by non-Canadian companies as the price for their access to Canada. Apple Computer Inc. was allowed to establish operations in Canada last month only after it promised to look for competitive Canadian-made parts for use in Apple's world-wide production.●

THANKSGIVING TURKEY FOR THE FIRST FAMILY

● Mr. PRYOR. Mr. President, I wish to take this opportunity to call attention to a presentation made today at the White House. The National Turkey Federation, whose national president this year is Hugh McClain from Mountain Home, Ark., presented President Reagan with a Thanksgiving turkey for the first family.

I think it fitting that this component of the agricultural sector of our economy should be recognized during this holiday season. It is a component, I might add, that does not participate in any kind of legislated Government set-asides, diversion payments, or subsidies.

And it is fitting at this time to call attention to the fact that—like other agricultural commodities—while enjoying a record production year, the turkey industry is also suffering financially. Uncertain markets and ever-increasing production costs have plagued this sector of our agricultural economy to as great a degree as these factors have impacted the entire agricultural community.

I hope while Americans are enjoying their Thanksgiving bird this year that they will not forget from whence that meal came. It came from the American farmer. And the American farmer, Mr. President, needs and rightfully deserves the support of the Federal Government in insuring an atmosphere whereby those who choose to till the soil to meet the food and fiber needs of the Nation can do so at a reasonable profit.●

AGING IN THE EIGHTIES: AMERICA IN TRANSITION

● Mr. CHILES. Mr. President, today the preliminary results of "Aging in the Eighties: America in Transition," a survey conducted by Louis Harris and Associates for the National Council on Aging were released.

This is the most extensive study of the conditions and concerns of older people, as well as of the perceptions of the aged by adult Americans, undertaken in recent times. This study will have particular value for the Congress and for the delegates preparing for the 1981 White House Conference on Aging.

The study underscores considerable progress which is being made by great segments of the aged. But it also underscores the remaining numbers of the aged which are in continuing need, in ill health and economic straits. This study is significant in that it documents the great concern of younger Americans for those which are already old and the willingness of younger Americans to contribute to the economic and health security of the aged.

While this is not the final and complete report, I feel that it is of sufficient importance to bring it to the attention of my colleagues at this time and I request that it be printed in the RECORD for that purpose.

The remarks follow:

REMARKS BY LOUIS HARRIS, CHIEF EXECUTIVE LOUIS HARRIS AND ASSOCIATES AT A CONGRESSIONAL BRIEFING IN WASHINGTON, D.C. ON NOVEMBER 18, 1981

Let me say at the outset that the ground rules for the conduct of this second major study our firm has had the privilege of carrying out are almost as important as the findings themselves. Our sponsors—primarily the Atlantic Richfield Foundation, but also the funding arms of Exxon, Equitable and Colonial Penn—our sponsoring organization, the National Council on Aging, and our distinguished panel of advisors all were agreed that the research effort should not be out to prove anyone's pet nostrums, nor was anything to deter us from generating the facts to let the chips fall where they may. Those were the only ground rules which could apply to a study of where the aging are today, where they are headed, and what should be the role of government, the private sector, and the aging themselves in enhancing the lot and contribution to society of those 65 and over.

I would also like to pay tribute here today to the positive contributions of William Kieschnick and Phyllis Quan of the ARCO Foundation, Jack Ossofsky and Hal Sheppard of the NCOA, and Liz Montgomery and Garry Nelson of our own organization. Without them, there would have been no study at all.

AGING

Now let me report some of the fascinating results of this study. First, its scope. In all, we interviewed, in person, a cross-section of 2,429 adults between 18 and 54 years of age, 468 between the ages of 55 and 64, and 540 65 years and older. Including in the sample are 359 blacks and 190 Hispanics in the aging category. Those 55 and over, blacks and Hispanics were oversampled in order to have adequate bases to break out key groups of older people, including those in the 70–79 and 80 and over categories. However, in reporting nationwide totals, all oversampled groups are weighted back to their proper and correct proportions.

It comes as no surprise that for the country as a whole, the dominant issues of concern are economic. Our people are living in singularly hard times. We asked people about the major issues facing the elderly. At the top of the list is inflation, volunteered by 22 percent as the greatest problem, with 13 percent who said lack of money, 10 percent financial problems, 9 percent not being able to make ends meet, 10 percent inadequacy of retirement income, 9 percent worry over Social Security, 8 percent how to live on fixed incomes, 7 percent indebtedness, 5 percent not enough jobs. Two out of three problems facing older people, cited by those under 65 and those 65 and over, center on these economic issues.

Myth and reality about the aging

However, even though there is remarkable agreement on the types of problems believed to be plaguing the elderly, the same pattern we found between the myth and reality about the aging 7 years ago has hardly changed at all. Let me call a roll on some of the key items tested:

Sixty-eight percent of those under 65 say a "very serious problem" for the elderly is "not having enough money to live on." Fifty percent of the elderly say the same about their peer group. Yet, when we asked both those over and under 65 how serious a problem "not having enough money to live on" was for them personally, no more than 17 percent of the elderly reported this a "very serious" problem. Thus, 68 percent of the 18–64 age group say not having enough money to live on is a "very serious" problem for most older people, but only 17 percent of the elderly themselves say that this is the case with them. Ironically, a higher 22 percent of the under 65 age group report this as a serious problem for them personally.

Sixty-five percent of those under 65 feel "loneliness" is a very serious problem for most of the aging and 45 percent of those 65 and over agree with them. But only 13 percent of the elderly feel "loneliness" is a very serious problem for them personally. This is only 6 points higher than the 7 percent of those under 65 who report "loneliness" a very serious problem for them personally.

Or take the issue of "fear of crime"; 74 percent of those under 65 say it is a "very serious" problem for most elderly. However, a much smaller 25 percent of those 65 and over report that they are personally very seriously beset by this problem. Only a slightly lower 20 percent of those under 65 report feeling that way themselves.

What in the world is going on here? Basically, on every single issue tested, the elderly are perceived as being in much more desperate shape than they actually are. On the impact of inflation, coping with energy, loneliness, poor health, fear of crime, poor housing, not enough job opportunities, not enough medical care, getting transportation to stores, to doctors, to recreation, on all of these, much larger numbers of the nonelderly are convinced older people are in more desperate shape than the elderly themselves report they are. Indeed, the under 65 group, in many cases, report themselves to be just as beset by these problems as those 65 and over. Sadly, large numbers of the elderly themselves buy the libel about their fellow senior citizens.

These results, which first surfaced in our 1974 study, should explode the myth that most elderly people in this country are a hopeless, inert mass teetering on the edge of senility, simply waiting out their time to die. Mark it well, the elderly in our society are survivors, resilient and very much alive, who want to make a major contribution to the mainstream of life in the work they do and are capable of doing. This study sheds special light on this singular mark of the elderly.

By the same token, however, these results cannot and should not be taken as a signal that governmental help for the elderly can be allowed to wither away, and that they will not suffer from the cutbacks. Between 20 and 25 percent of the elderly in this country are in deep trouble.

To those who might view these results as a sign that the bulk of the elderly really are fair game for major cutbacks in federal programs, this survey documents fully just why the reaction to proposed cuts and changes in Social Security have been so fierce.

Satisfaction and optimism

Underneath it all, the elderly want to be in the process, not cut out of it. Two real signs: By 83–12 percent, an overwhelming majority of the public feels "older people today are better educated than 10 or 20 years ago." An even high 87–8 percent of those 65 and over share this view. By 64–28 percent, a majority of the total public also believe "older people today are healthier than 10 to 20 years ago." By a higher 71–19 percent, those 65 and over agree. However, there is one serious demur: By 54–38 percent, a majority of the total public is convinced "older people today are worse off financially than they were 10–20 years ago," a turnaround from a 52–40 percent majority who denied this back in 1974.

But, those 65 and over do not think they are worse off financially by a narrow 47–43 percent. Seven years ago, a much more substantial 58–31 percent majority of the elderly felt they were not worse off financially. So some visible erosion has taken place.

Much the same pattern emerges in the case of a battery of 18 life satisfaction statements that Professor Robert Havighurst came up with in 1974:

By 8–1 today and 7 years ago a big majority agree "as I look back on my life, I am fairly well satisfied." Comparatively, by 12–1, unchanged, they feel "compared to other people my age, I make a good appearance." And, by 6–1, unchanged, they say "I've gotten pretty much what I expected out of life." By close to 3–1, not much changed in 7 years, they feel "the things I do are as interesting to me as they ever were." By 2–1, also unchanged, most agree, "I've gotten more of the breaks in life than most people I know."

Again, by an unchanged 2–1, a majority still say, "I would not change my past life even if I could." And, by an unchanged 2–1, a majority of the elderly agree, "I expect some interesting and pleasant things to happen to me in the future." Clearly, hope and optimism spring eternal. Indeed, this is evident in an unchanged 51–45 percent majority who continue to deny that "I feel old and somewhat tired."

Despite this seemingly unquenchable optimism, there is also solid evidence of the troubles the elderly carry with them:

While it is true that a 53–38 percent majority feels, "As I grow older, things seem better than I thought they would be," an 11 point higher 64–26 percent majority felt that way 7 years ago. And by 2–1, most deny "these are the best years of my life" as was the case in 1974. Added to this, a 55–40 percent majority feels "my life could be happier than it is now," a turn-around from 7 years ago. And by 4–3, most feel that "in spite of what some people say, the lot of the average person is getting worse," a reversal of a 4–3 plurality who did not feel that way 7 years ago. So some of the edge is off. Nonetheless, a resilient almost 2–1 deny "when I think back over my life, I didn't get most of the important things I wanted." By almost 3–1 or better, 70 percent or more deny "this is the dreariest time of my life," "most of the things I do are boring or monotonous," and "compared to other people, I get down in the dumps too often." Clearly, these elderly are not about to give up—by a long shot.

Groups with problems

However, there are four critical groups of older people who consistently are not nearly as optimistic about their old age status and who in the aggregate report living a miserable, dismal existence: blacks, Hispanics, those with incomes under $10,000 and women.

This study poignantly spells out their plight and underscores the bad times they are living through. Life for them is by and large a never-ending succession of miseries.

This is especially evident in the health care area, where by 56–43 percent, a majority of the elderly are positive about the status of their health. However, by 63–37 percent elderly blacks say their health is in bad shape, as does an almost identical 62–38 percent majority of older Hispanics. They belong to the "living sick" by their account. The elderly complain less about the quality of their medical treatment, but more about the cost of doctors' visits, the high cost of prescriptions, the rocketing expense of hospitalization, the lack of home care, and the short falls of Medicare coverage. While 46 percent of all those 65 and over say poor health is a serious problem, a much higher 67 percent of elderly blacks and 72 percent of older Hispanics feel that way as do 62 percent of those in the under $5,000 income group. While only 21 percent of all people 65 and over say not enough medical care is a serious problem, a much higher 54 percent of Hispanics feel this way; and, compared to 25 percent of all elderly who feel lack of transportation is a serious problem for them, 59 percent of elderly Hispanics feel this way.

Health care

Two ideas in the health delivery area emerge as steps whose time has come:

First, by 87–8 percent, the public nationwide favors having Medicare cover more health care services provided at home. At a time when medicine generally has been turning to outpatient care as a sound direction for cost containment measures, the specific application to elderly health is widely supported. Indeed, by 85–8 percent, the elderly who want to keep their health bills down and have little appetite for hospital confinement strongly support such at-home services.

Then, by 90–7 percent among the public and 86–7 percent among those 65 and over, big majorities back giving a tax break to families that provide health care at home to the elderly. The outpatient and in-home thrust to health services comes through loud and clear as a major mandate for health care for the elderly.

Of course, the role of Medicare, Medicaid, VA benefits or HMO membership can be seen graphically as it impacts on health care for the elderly. For example, among those aged 18–54, 81 percent have Blue Cross or another private plan, while only 6 percent are covered by a government plan and 4 percent by an HMO. By contrast, among those 65 and over, 75 percent are covered by a private plan, but almost as many, fully 78 percent, are also covered by a government plan. Among the under $10,000 income group, 61 percent are in some private plan, but a much higher 83 percent are covered by a government program.

Among the elderly black, only 45 percent have private health coverage, compared with 79 percent covered by a governmental program. Among older Hispanics, only 18 percent have private health coverage, with 63 percent in a government plan, but 19 percent of this group have no health coverage at all. Among all the elderly, only 5 percent are not covered by either a public or private plan.

Income

Now let me deal with basic facts about income. The mean income for all households in our sample was $22,000 annually. Among those 65 and over, it is a much lower $12,000, dipping to $9,500 for those over 80, $9,800 for older women, $11,700 for the elderly retired, $7,200 for older Hispanics and $6,900 for the elderly blacks.

When asked to describe the adequacy of their income, by only a bare 50–49 percent of all people say they are making it: 13 percent say they just cannot make ends meet, 36 percent that they can just scrape by, 37 percent say they have enough to get along and even a little extra, while 13 percent report they can buy pretty much anything they want. Among the elderly, the division is 50–48 percent that they cannot make it. However, only 10 percent say they are below water, 40 percent are barely scraping by, 30 percent have a few extras, while 18 percent say they can buy just about anything.

Those elderly really hurting are women, those with incomes under $10,000, those without pensions, those in poor health, blacks and Hispanics. They are the elderly poor, who literally are flattened out at the bottom of the economic heap.

In many ways, however, it is striking that the elderly with incomes that are literally only 50 percent as great as those between 18 and 54 report they are coping almost as well. How come? First, 66 percent of those 65 and over own their houses free and clear, while this is the case with only 12 percent of those between 18 and 54. Second, by any measure, the elderly are far more frugal and experienced in the handling of their money. For example, in the last year, only 39 percent of elderly had to draw down on their savings to pay bills, while a much higher 52 percent of those under 65 had to do the same, even though both groups have the same number, 88 percent, who have a savings account.

Social security

The central role of Social Security benefits as a source of income for the elderly emerged stark and clear from this survey. Fully 93 percent of those 65 and over receive Social Security checks, compared to 32 percent who have income from a private or public pension fund, 33 percent with income from savings, 22 percent with income from investments, 13 percent from earnings on a job, 7 percent income from renters or boarders, 7 percent who receive SSI benefits and 5 percent who are helped financially by their children.

When older people are asked which one source of income provides the largest part of their income, Social Security won hands down, cited by 61 percent. Without doubt, Social Security is the vital financial link to survival for a sizable majority of older Americans.

So, the American people want desperately to not only continue Social Security, but to put it on a sound footing. By 68–29 percent a big majority of people between 18 and 54 say they have "hardly any confidence" that the Social Security system will have the money to pay them when they retire. Thus, we can understand why a substantial majority of the American people, 63–31 percent, are opposed to cutting the current Social Security taxes. Indeed, by 51–39 percent, a majority would favor even higher Social Security taxes if necessary to provide adequate income for older people.

However, there is an extensive litany of caveats the people raise about how to save Social Security:

By 92–6 percent, they would disapprove "reducing benefits for people already retired."

By 85–11 percent, they would disapprove "reducing benefits only for people who retire in the future."

By 59–35 percent, they oppose "gradually raising the retirement age for full Social Security benefits fom 65 to 68 years of age."

By 62–29 percent, they disapprove eliminating "benefits for minor children of retired workers."

By 64–32 percent, they also disapprove "giving Social Security benefits only to elderly people who can prove they have little or no other income."

And by 73–21 percent, they do not want to cut "the cost-of-living adjustments in retirement benefits."

However, by 56–26 percent, a better than 2–1 majority would approve of "basing cost-of-living adjustments on increases in either wages or prices, whichever is lower." All groups under and over 65 feel that way.

By 62–30 percent, another 2–1 majority also say they would look with favor on "using federal monies such as income taxes to pay for part of Social Security."

And by a big 76–18 percent, a majority would back "requiring workers who do not pay Social Security taxes now—for example, employees of the federal government—to pay these taxes."

Both in this study and in numerous other studies we have conducted over the past several years, two inescapable facts emerge. First, that the Social Security system is inviolate and is viewed as a bedrock financial institution that must be preserved at all costs. Second, that people will not tolerate many cuts on the benefit side, but are willing to pay more on the revenue side to make the system sound and whole. The only exception to an unbroken pattern of support for this dominant position are those in the highest income brackets, $35,000 and over, who oppose paying more for Social Security by 49–43 percent.

This study also probed to find out which types of institutions should assume more responsibility than they now have for the elderly. For the public as a whole, at the top of the list came government, cited by 54 percent, followed by children of the elderly (46 percent), the elderly themselves (23 percent), employers (19 percent), and religious and charitable organizations (14 percent). However, a lower percentage of the elderly opted for government, children, employer, and charitable help—and a higher percentage would like the elderly themselves to move into the breach.

Jobs for the elderly

Part of the way the elderly hope to fend better in the future is to keep on working. Among all those now working in the key pre-retirement age between 55 and 64, a majority of 79–18 percent are opposed to stop working completely when they retire. Indeed, by 49–45 percent, most Americans don't look forward to retirement at all. Instead, they want at least part-time paid work. Of real help to the 55 to 64 age group would be the following: By 73–21 percent to have "greater availability of part-time work," by 66–30 percent, a "job shared with someone else so that each person can take more time away from work but the job still gets done," and by 68–27 percent, "a job that allows a day or two a week to work at home." Obviously, big majorities of those who will next retire from their present work do not want to just drop out of the job market.

Aging

In a time when labor supply shortages will loom in the next decade, the challenge to the American economy is to find a way to tap the elderly pool of workers, to find ways to utilize them part-time, and to apply new flex-time working conditions. Ironically, such continued working by the elderly in one fell swoop could help them survive through tough economic times, satisfy their psychological needs to contribute to the mainstream of society and even help relieve the financial strain on the Social Security system.

Mark it well, by a nearly unanimous 90–9 percent, a majority of all ages feel that "nobody should be forced to retire because of age, if he or she wants to continue working and is still able to do a good job." Clearly, the days of mandatory retirement, other than that based on health or inability to do the job, are numbered. The elderly want to work and must be given that chance.

By the same token, by another lopsided margin, 79–15 percent among the entire population and by 73–16 percent among those 65 and over, people are convinced that "most employers discriminate against older people and make it difficult for them to find work." High up on this list of priorities for older people must be a vigorous campaign by both the public and private sector that discrimination against the elderly be ended.

Now whenever the subject of the elderly working bevond 65 is raised, invariably some feel compelled to point out the consequent injustices to the younger generation. A whole host of articles have painted a picture of octogenarians holding onto their jobs long after they should have relinquished them. In turn, it is claimed, younger people will have to wait endless years for the better jobs to open up. This supposed conflict has been portrayed as a long generational war between selfish elderly clinging to their jobs on the one hand, and frustrated younger people blocked off from promotion on the other.

Back in 1974, by a narrow 49–46 percent, a plurality of the entire public agreed with the view that "older people should retire when they can to give younger people more of a chance on the job." Well, now attitudes have changed dramatically. By a decisive 59–37 percent, a majority of the entire adult population disagrees with that claim. Indeed, among the group 18–64, a decisive 62–34 percent do not buy that proposition at all.

Among those young people 18–24 years of age, an even higher 68–30 percent majority rejects the view that the elderly have an obligation to the younger to get out of the work force as fast as possible. Ironically, among those 65 and over, undoubtedly reflecting some of the spate of articles on the subject, a 50–44 percent plurality expresses guilt about older people holding down jobs too long. As happens so often, prevailing wisdom on this score is just plain dead wrong. Older people want to work, and younger people think it is a great idea.

A growing political force

In analyzing and reporting these results, it surely must be evident that this is not an inert, hopeless group of older people, simply waiting out their time to die. To the contrary, these elderly are vibrant, alive, and want most of all to make their contribution to society for a long time to come. They are growing in number and in vitality. But they can feel the pressures from the rest of society.

Note well that by a clear 55–35 percent, a majority feel that retired older Americans "have too little influence in this country today," as though they can sense a new force growing in the U.S., an even bigger 58–27 percent of those under 65 feel the same way as the elderly. The 65 and over group today is 16 percent of the population. But let it be noted well that the elderly are a larger 18 percent of the vote. For example, while 80 percent of those 65 and over vote, only 45 percent of those 18–25 years of age vote.

It is not overstating the case to say that the elderly from now on will be a major component in our politics and in our economy. They do not want to be pitied. They do not want to be neatly tucked away and forgotten. Above all else, they want into the process, not because they are special, but because they share the universal desire to be active and respected members of the human race.

Thank you.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if I could inquire of the distinguished assistant minority leader, I have a number of items to take care of that I believe have been cleared on his side as well as our own. Let me first put three unanimous-consent requests that I hope he is in a position to agree to.

Mr. CRANSTON. Mr. President, I understand those have all been cleared on this side of the aisle.

Mr. BAKER. I thank the distinguished acting minority leader.

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

Mr. BAKER. Mr. President, there are certain other items that are cleared on our calendar. I would especially invite the attention of the acting minority leader to calendar order No. 376, S. 1493. I inquire of the minority leader if he is in a position to proceed to the consideration of that item at this time.

Mr. CRANSTON. Yes.

DEAUTHORIZATION OF SEVERAL CORPS OF ENGINEERS PROJECTS

Mr. BAKER. Mr. President, in view of that, I ask that the Chair lay before the Senate Calendar Order No. 376, S. 1493.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1493) to deauthorize several projects within the jurisdiction of the Army Corps of Engineers.

The Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 2, line 7, strike "five", and insert "two";

On page 2, line 17, strike "(80 Stat. 1421),", and insert "(Public Law 89-789),";

On page 2, line 24, strike "Act.", and insert "this section.";

On page 4, beginning on line 22, strike "at the price paid to them by the Government or";

On page 4, line 23, after "at", insert "the";

On page 4, line 24, strike "whichever is less";

On page 6, line 4, after "section,", insert "at";

On page 6, line 9, strike "(82 Stat. 739)", and insert "(Public Law 90-483)";

On page 6, line 17, after "of" insert "the Flood Control Act of 1968";

On page 7, beginning on line 1, strike "795 Stat. 1081)";

On page 7, line 18, strike "201", and insert "204";

On page 7, after line 19, insert the following:

(h) DELAWARE-MARYLAND-VIRGINIA INTRACOASTAL WATERWAY.—The project for the Delaware Bay, Delaware, to Cape Charles, Chesapeake Bay, Virginia, Intracoastal Waterway, authorized under the terms of section 201 of the Flood Control Act of 1965 (Public Law 89-298).

(i) MARYLAND: SIXES BRIDGE.—The project for Sixes Bridge Dam and Lake, Maryland, authorized by section 85 of the Water Resources Development Act of 1974 (Public Law 93-251).

SEC. 4. (a) The consent of Congress is hereby given to the City of Boston to construct, maintain, and operate a fixed-span bridge in and over the water of the Fort Point Channel, Boston, Massachusetts, lying between the northeasterly side of the existing Summer Street Bridge and the northeasterly side of the existing Northern Avenue Bridge.

(b) Work shall not be commenced on such bridge until the location and plans therefor are submitted to and approved by the Secretary of Transportation.

(c) Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above described portions of Fort Point Channel, is hereby abandoned.

(d) In approving the location and plans of any bridge, the Secretary of Transportation may impose any specific conditions relating to the maintenance and operation of the structure which may be deemed necessary in the interest of public navigation.

SEC. 5. The plan for the project for Ellicott Creek, New York, authorized in section 201 of the Flood Control Act of 1970 (Public Law 91-611) is hereby modified in accordance with the recommendations of the Chief of Engineers in a report dated April 2, 1979: *Provided*, That local interests agree to meet local assurance requirements set forth in section 3 of Public Law 738 of the Seventy-fourth Congress (33 U.S.C. 701c).

SEC. 6. (a) The lock authorized by section 114 of the Water Resources Development Act of 1976 (Public Law 94-587), as a replacement for Vermilion Lock, Louisiana, shall hereafter be known as Leland Bowman Lock. Any law, regulation, map, document, or record of the United States which refers to such lock shall hereafter be held and considered to refer to such lock as "Leland Bowman Lock".

(b) The dam and reservior on the Salt River, Missouri, known as the Clarence Cannon Dam and Reservoir, authorized by section 203 of the Flood Control Act of 1962 (Public Law 87-874) as the Joanna Reservoir, shall hereafter be known as the Clarence Cannon Dam and Mark Twain Lake. Any law, regulation, map, document, or record of the United States in which such dam and reservoir are referred to shall be held and considered to refer to such dam as the Clarence Cannon Dam and to such reservoir as the Mark Twain Lake, respectively.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204 of the Flood Control Act of 1965 (Public Law 89-298) is amended as follows: "The Dickey-Lincoln School Lakes project, Saint John River, Maine, is hereby modified to deauthorize that component of the project known and referred to as the Dickey Dam and its associated transmission facilities.".

(b) No Federal agency or department shall consider any license application relating to hydropower projects above the site of the Lincoln School Dam on the Saint John River and its tributaries, Maine, for a period of two years after the enactment of this Act.

SEC. 2. (a) The authorization for the Meramec Park Lake (hereinafter in this section refered to as the "project") contained in that portion of the general comprehensive plan for flood control and other purposes in the Upper Mississippi River Basin, which plan was authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), as modified by section 203 of the Flood Control Act of 1966 (Public Law 89-789), is hereby terminated.

(b) The Secretary of the Army, acting through the Chief of Engineers (hereinafter in this section referred to as the "Secretary"), shall immediately undertake interim management and maintenance of works, structures, and interests in lands related to the project pending the implementation of the subsequent provisions of this section.

(c) The Secretary shall dispose of works, structures, and interests in lands related to the project as follows:

(1) To the State of Missouri, all right, title, and interest in and to—

(A) Meramec State Park extension, consisting of three thousand eight hundred and twenty-three acres.

(B) Onondaga Cave State Park extension, consisting of one hundred and twenty-four acres.

(C) Huzzah State Wildlife Management Area extension, consisting of nine hundred and forty-five acres.

(D) Endangered species sites, consisting of not more than two hundred acres.

(E) Campbell Bridge access, consisting of not more than ten acres.

(F) Sappington Bridge access, consisting of not more than ten acres.

(G) Liberty Road access, consisting of not more than ten acres.

(2) A perpetual easement sufficient to safeguard for the river user the natural, cultural, and visual resources of the Meramec River and Huzzah and Courtois Creeks shall be conveyed to the State of Missouri within nine months from the date of this Act. The Secretary is hereby directed to establish such easements in conjunction with the State of Missouri. Said easements shall be not less than one hundred feet nor more than one-quarter mile as measured from the normal high-water mark of said river and creeks, taking into consideration the varying terrain of such lands and the best public interest.

(3) A perpetual easement sufficient to provide for and allow pedestrian use of a corridor of land connecting Meramec State Park with the Huzzah State Forest shall be conveyed to the State of Missouri within nine months from the date of this Act. The Secretary is hereby directed to establish such easement in conjunction with the State of Missouri. Said easement shall be not less than one hundred feet in width and shall be used for the development of the Ozark Trail, which will be constructed and maintained by the State of Missouri.

(4) The remainder of the works, structures, and interests in lands related to the project shall be offered, within a period of one year from the date of enactment of this Act, for sale to the previous owners at the current appraised value. Such former owners shall have a period of one year in which to enter a contract for the repurchase of such properties, after which any remaining works, structures, and interests in lands shall be sold at a public auction, or a series of public auctions, to be conducted following reasonable public notice and advertising of the time and place of such auction or auctions, until such time as all remaining works, structures, and interests in lands have been disposed of.

(d) The Secretary is authorized either to comply with or to enter into a mutual agreement to cancel any executory contract the United States has entered for the purchase of lands for the project at the request of any landowner who is a party to such a contract, within six months after the date of enactment of this Act.

(e) Nothing in this section shall terminate the authority or responsibility of the United States to satisfy, pursuant to the provisions of the Uniform Relocation Assist-

ance and Real Property Acquisition Policies Act of 1970 (49 U.S.C. 4601 et seq.) and any other applicable provision of law, all relocation assistance, and other obligations arising out of the acquisition, prior to the date of enactment of this Act, of any interest in real estate for the project.

(f) There are authorized to be appropriated such amounts as may be necessary to carry out this section. Funds available for the project deauthorized by this section may be used to carry out the provisions of this section.

SEC. 3. The authorizations for the projects described in this section, at the locations described, are terminated upon the date of enactment of this Act:

(a) ILLINOIS: HELM RESERVOIR.—The project for Helm Reservoir, Skillet Fork of the Wabash River, Illinois, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90–483), as part of the Wabash River Basin comprehensive plan.

(b) ILLINOIS: LINCOLN DAM.—The project for Lincoln Dam and Reservoir, Wabash River, Illinois and Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89–298).

(c) INDIANA: BIG BLUE DAM.—The project for Big Blue Dam, Big Blue River, Indiana, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90–483).

(d) ILLINOIS: ILLINOIS RIVER DUPLICATE LOCKS.—The project for the Illinois Waterway, Illinois and Indiana, authorized by section 101 of the River and Harbor Act of 1962 (Public Law 87–874).

(e) INDIANA: LAFAYETTE DAMS.—The project for the Lafayette Dam and Reservoir, Wild Cat Creek of the Wabash River, Indiana, as authorized in section 204 of the Flood Control Act of 1965 (Public Law 89–298).

(f) VIRGINIA: NANSEMOND RIVER.—The portion of the project for the Nansemond River, Virginia, from the United States Highway 640 Bridge at Suffolk, Virginia, to the upstream project limits at river mile 18.66, a distance of approximately two thousand five hundred feet, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and other purposes", approved August 11, 1888 (25 Stat. 410), and modified by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 3, 1930 (46 Stat. 922).

(g) INDIANA: CLIFTY CREEK DAM.—The project for the Clifty Creek Dam, Clifty Creek, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89–298).

(h) DELAWARE-MARYLAND-VIRGINIA: INTRACOASTAL WATERWAY.—The project for the Delaware Bay, Delaware, to Cape Charles, Chesapeake Bay, Virginia, Intracoastal Waterway, authorized under the terms of section 201 of the Flood Control Act of 1965 (Public Law 89–298).

(i) MARYLAND: SIXES BRIDGE.—The project for Sixes Bridge Dam and Lake, Maryland, authorized by section 85 of the Water Resources Development Act of 1974 (Public Law 93–251).

SEC. 4. (a) The consent of Congress is hereby given to the City of Boston to construct, maintain, and operate a fixed-span bridge in and over the water of the Fort Point Channel, Boston, Massachusetts, lying between the northeasterly side of the existing Summer Street Bridge and the northeasterly side of the existing Northern Avenue Bridge.

(b) Work shall not be commenced on such bridge until the location and plans therefor are submitted to and approved by the Secretary of Transportation.

(c) Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above described portions of Fort Point Channel, is hereby abandoned.

(d) In approving the location and plans of any bridge, the Secretary of Transportation may impose any specific conditions relating to the maintenance and operation of the structure which may be deemed necessary in the interest of public navigation.

SEC. 5. The plan for the project for Ellicott Creek, New York, authorized in section 201 of the Flood Control Act of 1970 (Public Law 91–611) is hereby modified in accordance with the recommendations of the Chief of Engineers in a report dated April 2, 1979: *Provided*, That local interests agree to meet local assurance requirements set forth in section 3 of Public Law 723 of the Seventy-fourth Congress (33 U.S.C. 701c).

SEC. 6. (a) The lock authorized by section 114 of the Water Resources Development Act of 1976 (Public Law 94–587), as a replacement for Vermilion Lock, Louisiana, shall hereafter be known as Leland Bowman Lock. Any law, regulation, map, document, or record of the United States which refers to such lock shall hereafter be held and considered to refer to such lock as "Leland Bowman Lock".

(b) The dam and reservoir on the Salt River, Missouri, known as the Clarence Cannon Dam and Reservoir, authorized by section 203 of the Flood Control Act of 1962 (Public Law 87–874) as the Joanna Reservoir, shall hereafter be known as the Clarence Cannon Dam and Mark Twain Lake. Any law, regulation, map, document, or record of the United States in which such dam and reservoir are referred to shall be held and considered to refer to such dam as the Clarence Cannon Dam and to such reservoir as the Mark Twain Lake, respectively.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENT NO. 660

(Purpose: To clarify the budget implications of a provision in the bill)

Mr. BAKER. Mr. President, on behalf of Mr. ABDNOR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for the Senator from South Dakota (Mr. ABDNOR), proposes an unprinted amendment numbered 660.

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

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

The amendment is as follows:

Beginning on page 5, line 23, strike all through line 2 on page 6, and insert in lieu thereof the following:

"(f) Funds authorized prior to enactment of this Act for the project specified in this section may be utilized by the Secretary, as necessary, to carry out the provisions of this section to deauthorize the project."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Tennessee (Mr. BAKER).

The amendment (UP No. 660) was agreed to.

Mr. ABDNOR. Mr. President, I wish to state my support for this bill. Each provision in this bill is supported by both Senators from the affected State. For most of these projects, State and local support has been officially withdrawn. And in every case but one, construction has not proceeded beyond the land acquisition phase.

The project deauthorizations included in S. 1493 will reduce the backlog of unconstructed projects by over $2 billion. In some cases, deauthorization will eliminate continued Federal land maintenance expenditures; in others, it will also allow other proposed activities to occur on the site of the proposed project.

I introduced this bill, along with my good friend, the ranking minority member on the Subcommittee on Water Resources (Mr. MOYNIHAN), because I believe we must begin to address the need to define project priorities. We established some very basic criteria for inclusion in this bill—endorsement by both Senators in the affected State—and I hope we will be able to establish criteria for other deauthorizations, as well as new authorizations. Only when we begin to develop criteria to assign priorities will we be able to authorize the most needed projects.

Mr. President, there are 11 projects which would be deauthorized under this bill: the Dickey Dam in Maine; Meramec Park Lake in Missouri; Helm Reservoir, Lincoln Dam, and the Illinois River duplicate locks in Illinois; Big Blue, Lafayette, and Clifty Creek Dams in Indiana; the Delmarva Intracoastal Waterway in Delaware, Maryland, and Virginia; Sixes Bridge Dam in Maryland; and Sandridge Dam in New York. In addition, the bill allows the corps to abandon navigation authority for sections of the Nansemond River in Virginia and Fort Point Channel in Massachusetts. Finally, it includes two name changes.

I would ask that my colleagues give it their unanimous support.

Mr. DANFORTH. Mr. President, the consideration of this legislation is a happy occasion for me. When I ran for the Senate in 1976, I compaigned against the Meramec Dam. I saw it then and still see it today as a prime example of wasteful Federal spending—of a pork-barrel government out of control—of a boondoggle that simply refuses to die. Now we have an opportunity to drive a stake through the heart of this vampire and kill this unneeded project once and for all.

The cost of the Meramec Park Lake project is put at $220 million. That is $20 million more than the critically needed second lock at locks and dam 26 will cost. And what would be the benefits of this hemorrhage of taxpayer dollars?

Flood control was considered a major benefit. But the dam would have flooded 12,600 acres upstream in order to provide a high degree of flood protection for just 11,800 acres downstream.

Recreation was considered a major benefit. But the dam would have inundated one of Missouri's most prized recreational areas—an area of free-flowing streams and creeks that canoeists cherish, dotted with a labyrinthine network of remarkable caves.

Water supply was considered a bene-

fit. But there is no foreseeable need for additional water supply in the vicinity of the reservoir. The only area with such a need lies downstream, near the confluence of the Missouri and the Mississippi Rivers, and surely a dam on the Meramec is not the answer to its concerns.

When I ran for the Senate in 1976, I told the people of Missouri that the benefits of this project just did not add up. When I arrived in the Senate in 1977, I succeeded in having the funding for this project removed from the Corps of Engineers' budget. And in 1978 the voters of Missouri made their sentiments known in no uncertain terms: In a special 13-county referendum, the project was rejected almost 2 to 1.

Three years have passed since that date—3 years in which the people of Missouri have patiently waited for a response to their vote. Today we have a chance to provide that response.

The provisions of S. 1493 relating to the Meramec Dam were developed by both Senators from Missouri, working closely with the Governor. Approximately 19 percent of the land now held by the corps will be conveyed to the State in order to preserve the recreational, environmental, and historical values of the river. The rest of the land will be sold back into private hands and put back onto the local tax rolls, and millions of dollars will be returned to the Federal Treasury.

We have before us today a proposal that, in my judgment, sensitively balances the interests of all the parties involved. I commend the Senator from South Dakota for his prompt and attentive action on this legislation, and I urge its passage. Let us put this boondoggle behind us.

Mr. STAFFORD. Mr. President, this legislation reported by the Committee on Environment and Public Works deserves the full support of the Senate.

I particularly wish to recognize the leadership of Senator ABDNOR, as well as the ranking minority member on the Subcommittee on Water Resources (Mr. MOYNIHAN), in developing this bill. Senator ABDNOR has been an excellent and responsible chairman, addressing policy needs as they arise. He is charged with a difficult task; steering the development of water resources development during a time of severe fiscal constraint. I commend the Senator in realizing that we must not only be concerned with new development, but that we must also begin to reduce the number of projects which were authorized in the past, but which are no longer viable.

Senator ABDNOR's introduction of this bill reminds all of us that before we address new project needs, we must define priorities among existing authorizations. In the case of these projects, deauthorization was required. In others, we will have to establish criteria that will define those priorities. His task in leading us to define these priorities is not an easy one. But I am confident that he will be able to meet this serious challenge.

I urge the Senate's approval of this legislation.

Mr. TSONGAS. Mr. President, I rise in strong support of section 4 of S. 1493, which grants the consent of Congress to the city of Boston to construct, maintain, and operate a causeway and fixed-span bridge over the Fort Point Channel. This would replace the present movable span bridge, which was built in 1907.

The bridge is now deteriorating rapidly. It costs Boston several hundred thousand dollars to maintain and operate it.

This legislation is essential to deal with local problems related to growth and transportation. The problems have gone unmet for the past decade. This session of Congress must take the first, important step toward their solution.

Mr. President, I want to thank the distinguished Senator from South Dakota (Mr. ABDNOR) and the distinguished Senator from New York (Mr. MOYNIHAN) for their assistance on this issue. I also thank my distinguished colleague from the Ninth Congressional District of Massachusetts (Mr. MOAKLEY) who authored the Fort Point Channel legislation and has worked so hard and long for its enactment.

Mr. President, I urge my colleagues to support this legislation, so that the economic development of this part of Boston may continue without further delay.

Mr. EAGLETON. Mr. President, I commend the Senate for its swift action in approving the deauthorization of Meramec Park Lake. I also applaud the Senator from South Dakota (Mr. ABDNOR) for his resolute action as chairman of the Water Resources Subcommittee which separated projects like the Meramec Dam, on which there is a consensus that they should be taken off the books, from all other water policy issues. Finally, I wish to commend the Senator from Vermont (Mr. STAFFORD) for his efforts on behalf of this deauthorization as chairman of the Senate Committee on Environment and Public Works.

As a cosponsor of the deauthorization of Meramec Dam along with my colleague from Missouri, this action brings me a sense of great relief that the long and controversial history of this project is drawing to a close. It has been almost 3 years since 64 percent of the people in Missouri voted in an advisory referendum not to proceed with this multimillion dollar project. In the 96th Congress, legislation I offered with Senator DANFORTH failed to win final approval because it was attached to an omnibus bill that became ensnarled in controversy.

I am deeply gratified to see this deauthorization bill win passage in the Senate because it is essential that the lands at the project site, which amount to 28,000 acres, be put back on the tax rolls. As part of this process, the State of Missouri would receive a portion of the land for recreation and conservation purposes and the former landowners would have the opportunity to purchase back the lion's share of the land, among other provisions.

The people of Missouri have made their wishes known in a loud and clear manner concerning the deauthorization of Meramec Dam. In the years since Missourians rejected the Meramec Dam, six studies were performed by various independent groups and the Missouri Department of Natural Resources. These studies were consulted in developing the plan for disposing of the lands. They were consulted by State officials in charge of administering recreation and conservation resources and the plan was endorsed by Governor Bond. I believe that the plan we have put forth addresses the concerns of hundreds of Missourians who have written to me on the complex issues involved in this deauthorization. And, I believe it is in the best interests of the taxpayers.

Again, let me commend the Senate for bringing the long story of the Meramec Dam to a close.

Mr. MOYNIHAN. Mr. President, I rise to support the passage of S. 1493, a bill to deauthorize several Corps of Engineers water projects. Senator ABNOR and I sponsored this bill with the full knowledge that we were doing something not often done in this body, and that was to cease the Federal Government's obligation to construct projects that no longer serve any useful purpose. The projects deauthorized in this bill would have cost the Federal Government over $2 billion.

There is one item in S. 1493 that is of particular interest to me—the Ellicott Creek flood control project in Amherst, N.Y. The project was originally authorized in 1970. One of the features of the authorized project was the Sandridge Dam. Since the time of authorization, the local sponsors of the project, with the concurrence of the Corps of Engineers, have concluded that construction of the Sandridge Dam would create more problems than it would solve. However, the local sponsors strongly support the remainder of the authorized project. According to the Corps of Engineers, the project would not be compromised in the absence of the dam.

The language included in S. 1493 will clear the way for construction of the remaining portion of the flood control project. Some construction funds have already been appropriated but progress on the project could not proceed in the absence of this modification to the original authorization. The modified project will cost $16 million instead of the original estimate of $23 million.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 204 of the Flood Control Act of 1965 (Public Law 89–298) is amended as follows: "The Dickey-Lincoln School Lakes project, Saint John River, Maine, is hereby modified to deauthorize that component of the project known and referred to as the Dickey Dam and its associated transmission facilities.".

(b) No Federal agency or department shall consider any license application relating to hydropower projects above the site of the Lincoln School Dam on the Saint John River and its tributaries, Maine, for a period of two years after the enactment of this Act.

SEC. 2. (a) The authorization for the Meramec Park Lake (hereinafter in this section re-

ferred to as the "project") contained in that portion of the general comprehensive plan for flood control and other purposes in the Upper Mississippi River Basin, which plan was authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218), as modified by section 203 of the Flood Control Act of 1966 (Public Law 89-789), is hereby terminated.

(b) The Secretary of the Army, acting through the Chief of Engineers (hereinafter in this section referred to as the "Secretary"), shall immediately undertake interim management and maintenance of works, structures, and interests in lands related to the project pending the implementation of the subsequent provisions of this section.

(c) The Secretary shall dispose of works, structures, and interests in lands related to the project as follows:

(1) To the State of Missouri, all right, title, and interest in and to—

(A) Meramec State Park extension, consisting of three thousand eight hundred and twenty-three acres.

(B) Onondaga Cave State Park extension, consisting of one hundred and twenty-four acres.

(C) Huzzah State Wildlife Management Area extension, consisting of nine hundred and forty-five acres.

(D) Endangered species sites, consisting of not more than two hundred acres.

(E) Campbell Bridge access, consisting of not more than ten acres.

(F) Sappington Bridge access, consisting of not more than ten acres.

(G) Liberty Road access, consisting of not more than ten acres.

(2) A perpetual easement sufficient to safeguard for the river user the natural, cultural, and visual resources of the Meramec River and Huzzah and Courtois Creeks shall be conveyed to the State of Missouri within nine months from the date of this Act. The Secretary is hereby directed to establish such easements in conjunction with the State of Missouri. Said easements shall be not less than one hundred feet nor more than one-quarter mile as measured from the normal high-water mark of said river and creeks, taking into consideration the varying terrain of such lands and the best public interest.

(3) A perpetual easement sufficient to provide for and allow pedestrian use of a corridor of land connecting Meramec State Park with the Huzzah State Forest shall be conveyed to the State of Missouri within nine months from the date of this Act. The Secretary is hereby directed to establish such easement in conjunction with the State of Missouri. Said easement shall be not less than one hundred feet in width and shall be used for the development of the Ozark Trail, which will be constructed and maintained by the State of Missouri.

(4) The remainder of the works, structures, and interests in lands related to the project shall be offered, within a period of one year from the date of enactment of this Act, for sale to the previous owners at the current appraised value. Such former owners shall have a period of one year in which to enter a contract for the repurchase of such properties, after which any remaining works, structures, and interests in lands shall be sold at a public auction, or a series of public auctions, to be conducted following reasonable public notice and advertising of the time and place of such auction or auctions, until such time as all remaining works, structures, and interests in lands have been disposed of.

(d) The Secretary is authorized either to comply with or to enter into a mutual agreement to cancel any executory contract the United States has entered for the purchase of lands for the project at the request of any landowner who is a party to such a contract, within six months after the date of enactment of this Act.

(e) Nothing in this section shall terminate the authority or responsibility of the United States to satisfy, pursuant to the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 U.S.C. 4601 et seq.) and any other applicable provision of law, all relocation assistance, and other obligations arising out of the acquisition, prior to the date of enactment of this Act, of any interest in real estate for the project.

(f) Funds authorized prior to enactment of this Act for the project specified in this section may be utilized by the Secretary, as necessary, to carry out the provisions of this section to deauthorize the project.

SEC. 3. The authorizations for the projects described in this section, at the locations described, are terminated upon the date of enactment of this Act:

(a) ILLINOIS: HELM RESERVOIR.—The project for Helm Reservoir, Skillet Fork of the Wabash River, Illinois, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90-483), as part of the Wabash River Basin comprehensive plan.

(b) ILLINOIS: LINCOLN DAM.—The project for Lincoln Dam and Reservoir, Wabash River, Illinois and Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298).

(c) INDIANA: BIG BLUE DAM.—The project for Big Blue Dam, Big Blue River, Indiana, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90-483).

(d) ILLINOIS: ILLINOIS RIVER DUPLICATE LOCKS.—The project for the Illinois Waterway, Illinois and Indiana, authorized by section 101 of the River and Harbor Act of 1962 (Public Law 87-874).

(e) INDIANA: LAFAYETTE DAMS.—The project for the Lafayette Dam and Reservoir, Wild Cat Creek of the Wabash River, Indiana, as authorized in section 204 of the Flood Control Act of 1965 (Public Law 89-298).

(f) VIRGINIA: NANSEMOND RIVER.—The portion of the project for the Nansemond River, Virginia, from the United States Highway 640 Bridge at Suffolk, Virginia, to the upstream project limits at river mile 18.66, a distance of approximately two thousand five hundred feet, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and other purposes", approved August 11, 1888 (25 Stat. 410), and modified by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 3, 1930 (46 Stat. 922).

(g) INDIANA: CLIFTY CREEK DAM.—The project for the Clifty Creek Dam, Clifty Creek, Indiana, authorized by section 204 of the Flood Control Act of 1965 (Public Law 89-298).

(h) DELAWARE-MARYLAND-VIRGINIA: INTRACOASTAL WATERWAY.—The project for the Delaware Bay, Delaware, to Cape Charles, Chesapeake Bay, Virginia, Intracoastal Waterway, authorized under the terms of section 201 of the Flood Control Act of 1965 (Public Law 89-298).

(i) MARYLAND: SIXES BRIDGE.—The project for Sixes Bridge Dam and Lake, Maryland, authorized by section 85 of the Water Resources Development Act of 1974 (Public Law 93-251).

SEC. 4. (a) The consent of Congress is hereby given to the City of Boston to construct, maintain, and operate a fixed-span bridge in and over the water of the Fort Point Channel, Boston, Massachusetts, lying between the northeasterly side of the existing Summer Street Bridge and the northeasterly side of the existing Northern Avenue Bridge.

(b) Work shall not be commenced on such bridge until the location and plans therefor are submitted to and approved by the Secretary of Transportation.

(c) Any project heretofore authorized by an Act of Congress, insofar as such project relates to the above described portions of Fort Point Channel, is hereby abandoned.

(d) In approving the location and plans of any bridge, the Secretary of Transportation may impose any specific conditions relating to the maintenance and operation of the structure which may be deemed necessary in the interest of public navigation.

SEC. 5. The plan for the project for Ellicott Creek, New York, authorized in section 201 of the Flood Control Act of 1970 (Public Law 91-611) is hereby modified in accordance with the recommendations of the Chief of Engineers in a report dated April 2, 1979: *Provided*, That local interests agree to meet local assurance requirements set forth in section 3 of Public Law 738 of the Seventy-fourth Congress (33 U.S.C. 701c).

SEC. 6. (a) The lock authorized by section 114 of the Water Resources Development Act of 1976 (Public Law 94-587), as a replacement for Vermilion Lock, Louisiana, shall hereafter be known as Leland Bowman Lock. Any law, regulation, map, document, or record of the United States which refers to such lock shall hereafter be held and considered to refer to such lock as "Leland Bowman Lock".

(b) The dam and reservoir on the Salt River, Missouri, known as the Clarence Cannon Dam and Reservoir authorized by section 203 of the Flood Control Act of 1962 (Public Law 87-874) as the Joanna Reservoir, shall hereafter be known as the Clarence Cannon Dam and Mark Twain Lake. Any law, regulation, map, document, or record of the United States in which such dam and reservoir are referred to shall be held and considered to refer to such dam as the Clarence Cannon Dam and to such reservoir as the Mark Twain Lake, respectively.

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

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I inquire of the acting minority leader about the status of calendar order No. 379, Senate Joint Resolution 57, on his calendar. It is cleared on ours.

Mr. CRANSTON. That has been cleared on our side, also.

Mr. BAKER. I thank the acting minority leader.

NATIONAL SCLERODERMA WEEK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate calendar order No. 379, Senate Joint Resolution 57.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 57) to provide for the designation of February 7 through 13, 1982, as "National Scleroderma Week."

Mr. SYMMS. Mr. President, the joint resolution authorizes the President to designate the week of February 7–13, 1982, as "National Scleroderma Week."

Scleroderma is a painful and debilitating disease which affects the skin and multiple organs of the body, and can in its most serious form result in the death of the scleroderma patient.

Approximately 300,000 people are affected by scleroderma, and yet it remains a little-known and often misdiagnosed illness. There is not any known cure for the disease, and due to the lack of public awareness there has been a severe shortage of funding for research into possible cures and treatments.

Since public funding at this time is being reduced for the research of various illnesses, it is vitally important to encourage private funding, and that is specifically why it is necessary to raise the awareness level of the public in recognizing the existence of scleroderma.

I believe that National Scleroderma Week will focus the necessary attention on this disease.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 57

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall issue a proclamation designating February 7 through 13, 1982, as "National Scleroderma Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, could I inquire of the acting minority leader if he is in a position to clear Senate Resolution 98 for passage at this time?

Mr. CRANSTON. Yes.

AMERICAN HISTORY MONTH

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Resolution 98.

The PRESIDING OFFICER. The clerk will report.

The assistant legislation clerk read as follows:

A resolution (S. Res. 98) to designate February of each year as "American History Month."

Without objection, the Senate proceeded to consider the resolution which had been reported from the Committee on the Judiciary, with amendments, as follows:

On page 2, line 1, strike "each year", and insert "1982"; and

On page 2, line 3, strike "annually".

Mr. CRANSTON. Mr. President, on behalf of Senator BENTSEN, I ask unanimous consent that Senators THURMOND and GOLDWATER be added as additional cosponsors.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and agreed to en bloc.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble reads as follows:

S. RES. 98

Whereas the study of history not only enlivens appreciation of the past but also illuminates the present and gives perspective to our hopes for the future;

Whereas the study of American history leads to a greater understanding of our national heritage; and

Whereas it is appropriate to encourage a deeper awareness of the great events which have shaped America, and a renewed dedication to the ideals and principles we hold in trust: Now, therefore, be it

Resolved, That February 1982 is designated as "American History Month", and the President is authorized and requested to issue a proclamation to call upon Federal, State, and local government agencies, and the people of the United States to observe with appropriate programs, ceremonies, and activities.

The title was amended so as to read "Resolution to designate February 1982, as 'American History Month'.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I have two other matters. First, Mr. President, a House message on S. 1211.

EXTENSION OF TOXIC SUBSTANCES CONTROL ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1211.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1211) entitled "An Act to extend the Toxic Substances Control Act for one year", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) the first sentence of section 28(d) of the Toxic Substances Control Act is amended to read as follows: "For the purpose of making grants under subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1982 and 1983.".

(b) Section 29 of the Toxic Substances Control Act is amended by striking out "$10,100,000" and all that follows through "1979" and inserting in lieu thereof the following: "$62,000,000 for each of the fiscal years 1982 and 1983".

Amend the title so as to read: "An Act to amend the Toxic Substances Control Act to authorize appropriations for fiscal years 1982 and 1983.".

Mr. GORTON. Mr. President, S. 1211, now before the Senate reauthorizes the Toxic Substances Control Act. As it was amended by the House of Representatives, it authorizes $63.5 million for each of the fiscal years 1982 and 1983. The bill makes no substantive amendment to the act.

This is the second time that the Senate has acted on S. 1211. The bill was passed by the Senate on June 2, 1981. Then, it authorized $59,646 for fiscal year 1982 only. The bill was amended by the House of Representatives and returned to the Senate on September 29, 1981 with the longer and higher authorization.

President Reagan's request for authorization to the Environmental Protection Agency for administration of the Toxic Substances Control Act was $60,146,000. That amount represents a decrease of $8.3 million from the 1981 resource level. The proposed authorization level would support TSCA abatement and control activities in the Office of Pesticides and Toxic Substances, sustain the TSCA information integration program, while eliminating the intervenor and public participation grants portions of that latter program.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. SIMPSON) appointed Mr. GORTON and Mr. BAUCUS conferees on the part of the Senate.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 3454 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3454) to authorize appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. WALLOP. Mr. President, it is a privilege to submit the intelligence authorization conference report authorizing appropriations for U.S. intelligence activities for fiscal year 1982.

The Senate Select Committee on Intelligence views the annual budget authorization process as one of the principal means of strengthening and improving the U.S. intelligence system. The

committee has devoted a great deal of time and effort over the past 5 years examining how well the intelligence community is able to meet its responsibilities, and identifying areas where improvement is needed. We have made important progress through the budget authorization process in preparing the intelligence system to cope with the diversity of policy concerns our Nation is likely to face in the years ahead.

The fiscal year 1982 intelligence authorization bill continues the committee's goal of revitalizing our intelligence capabilities. We have provided for improvements in a number of key areas, and have taken the initiative to insure new capabilities are available to deal with emerging problems that will confront policymakers in the future. Unfortunately, two important legislative proposals contained in the Senate bill were not sustained in conference. These proposals would have further strengthened civilian personnel management within the Defense Intelligence Agency, and established criminal penalties for assaults on intelligence personnel. The House has agreed, however, to consider these proposals in separate legislation, and I intend to introduce such legislation shortly.

Our work is by no means complete; further improvement and investment are necessary in a number of areas, such as analysis and counterintelligence. We must also insure sufficient flexibility in the intelligence system to respond to multiple crisis without diverting resources from other high-priority missions, and to be able to recoup from unexpected compromise or loss of important capabilities.

I would like to take this opportunity to commend the members of the Senate Select Committee on Intelligence, and our colleagues on the House committee, for their diligence and strong support for the goals we have set. There is unanimous agreement between the two committees that we must have a first-rate intelligence service to compete effectively in world affairs in the years ahead. After all, intelligence is the Nation's first line of defense.

Mr. President, I strongly urge my colleagues in the Senate to support this important legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

(The conference report is printed in the House proceedings of the RECORD of November 16, 1981.)

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I have no further items of business to transact. I inquire of the acting minority leader if he has any other business to transact.

Mr. CRANSTON. I have none.

Mr. BAKER. I thank the acting minority leader.

PROGRAM

Mr. BAKER. Mr. President, tomorrow the Senate will convene at 10 o'clock. After the recognition of the two leaders under the standing order and the recognition of Senator BIDEN on a special order, there will be a brief period for the transaction of routine morning business. At the hour of 10:30 a.m., the Senate will turn to the consideration of the Alaska Natural Gas Transportation Act of 1976, on which there is a statutory time limitation. After disposition of that matter, Mr. President, the Senate will resume consideration of the continuing resolution making appropriations for the several agencies and departments of the Government.

It is expected, Mr. President, that tomorrow will be a late day, running well into the evening. It is the hope of the leadership that the Senate will be in a position to finish the continuing resolution tomorrow night. It appears almost imperative that we do so in order to permit the House and Senate to meet in conference, if need be, to agree to a report to be considered by the two bodies and transmitted to the President in advance of the time of the expiration of the present continuing resolution, which is midnight on Friday night.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. If there is no further business to be transacted by the Senate, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 10 o'clock a.m. on tomorrow.

The motion was agreed to, and, at 7:08 p.m., the Senate recessed until Thursday, November 19, 1981, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate November 18, 1981:

THE JUDICIARY

Ralph K. Winter, Jr., of Connecticut, to be U.S. circuit judge for the second circuit, vice Walter R. Mansfield, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 18, 1981:

THE JUDICIARY

Lawrence W. Pierce, of New York, to be U.S. circuit judge for the second circuit.

Emmett Ripley Cox, of Alabama, to be U.S. district judge for the southern district of Alabama.

Cynthia Holcomb Hall, of California, to be U.S. district judge for the central district of California.

Clarence A. Beam, of Nebraska, to be U.S. district judge for the district of Nebraska.

John Bailey Jones, of South Dakota, to be U.S. district judge for the district of South Dakota.

DEPARTMENT OF JUSTICE

Robert J. Wortham, of Texas, to be U.S. attorney for the eastern district of Texas for the term of 4 years.

Alan H. Nevas, of Connecticut, to be U.S. attorney for the district of Connecticut for the term of 4 years.

John W. Gill, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee for the term of 4 years.

Joseph P. Russoniello, of California, to be U.S. attorney for the northern district of California for the term of 4 years.

Philip N. Hogen, of South Dakota, to be U.S. attorney for the district of South Dakota for the term of 4 years.

J. Jerome Perkins, of Indiana, to be U.S. Marshall for the northern district of Indiana for the term of 4 years.

Denny L. Sampson, of Nevada, to be U.S. Marshal for the district of Nevada for the term of 4 years.

WITHDRAWAL

Executive nomination withdrawn from the Senate November 18, 1981:

Norman Braman, of Florida, to be Commissioner of Immigration and Naturalization, vice Leonel J. Castillo, resigned, which was sent to the Senate on September 29, 1981.