

SENATE—Monday, November 23, 1981

(Legislative day of Monday, November 2, 1981)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer will be given by the Reverend Richard Christian Halverson, Jr., associate pastor, North Avenue Presbyterian Church, Atlanta, Ga. He is the son of the Senate Chaplain.

PRAYER

The Reverend Richard Christian Halverson, Jr., associate pastor, North Avenue Presbyterian Church, Atlanta, Ga., offered the following prayer:

Let us pray.

Father in Heaven, these days on the Hill have been long, arduous, and perhaps even somewhat frustrating to those who labor here. Yet we know in Thy sovereignty it is no accident that we wrestle with these difficult circumstances peculiar to our day, nor is it by chance that each man and woman who occupies a position of influence in this body has been called to serve our country at this time.

Inasmuch as those who labor here have been ordained by You, a truth made known by the very Bible on which their oath of office is taken, grant with this divine calling the godly wisdom and fortitude to continue the hard work of plowing up fallow ground and planting seeds of peace that by faith what is said and done here, if under Thy guidance, may yield a rich harvest of righteousness across the land.

This we pray in the name of Him from whom we receive wisdom, Jesus Christ our Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

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

THE JOURNAL

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

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

WHEN I GET TIME

Mr. BAKER. Mr. President, Thomas Masson wrote a poem entitled "When I Get Time," and I could not imagine a better Monday morning than today to include it in the RECORD.

WHEN I GET TIME

(By Thomas L. Masson)

When I get time—
I know what I shall do:
I'll cut the leaves of all my books
And read them through and through.

When I get time—
I'll write some letters then
That I have owed for weeks and weeks
To many, many men.

When I get time—
I'll pay those calls I owe,
And with those bills, those countless bills,
I will not be so slow.

When I get time—
I'll regulate my life
In such a way that I may get
Acquainted with my wife.

When I get time—
Oh glorious dream of bliss!
A month, a year, ten years from now—
But I can't finish this—
I've no more time.

ORDER FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, is there an order for morning business today?

The PRESIDENT pro tempore. There is no order.

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business to extend no longer than 30 minutes in which Senators may speak for no more than 5 minutes each.

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

LEGISLATIVE SCHEDULE

Mr. BAKER. Mr. President, the House of Representatives is in session considering matters in relation to the continuing resolution. I hope to be able to inform the Senate in greater detail of what action may be taken by the House and what further action may be available to the Senate in the course of the day. I cannot do that at this moment.

I had hoped today to take up the small business bill, S. 881. Before I do that, Mr. President, I should like to explore the possibility of a unanimous-consent agreement that we might lay aside that measure temporarily to take up whatever comes over from the House in connection with the continuing resolution, since that is our first obligation. I shall not now make that request, but I inquire of the minority leader if he would be willing to see if we could get such an agreement later this afternoon.

Mr. ROBERT C. BYRD. Will the Senator repeat the statement? I am sorry; I beg his pardon. I was distracted.

Mr. BAKER. Yes. Mr. President, I said I had hoped today and previously announced that the Senate would be asked to proceed to the consideration of S. 881, the small business bill, but that I do not feel that I can or should do that unless I can get an agreement that if and when we receive something from the House in connection with the continuing resolution that we can temporarily lay aside that measure and proceed to the other matter as it comes to us from the House. I then indicated I will not now make that request but I inquire of the minority leader if he would be willing to consider such a request later in the afternoon.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the minority leader.

Mr. President, there is one other matter we can proceed with today, I believe, and I hope it has been cleared on both sides, and that is the Foreign Corrupt Practices Act. If that is cleared on the minority side, I would propose that, at the close of morning business and no earlier than 1 o'clock, we proceed to the consideration of that measure.

Mr. ROBERT C. BYRD. There is no objection on this side to proceeding to that measure.

Mr. BAKER. I thank the distinguished minority leader.

Mr. President, I do not foresee any great difficulty with that. I understand there is no great controversy involved. But I have the same problem with that; that is, to lay aside that measure, if necessary. I will not make that request at this time.

I ask the minority leader to consider, as well, the possibility of such unanimous consent request later.

Mr. ROBERT C. BYRD. That will be done.

Mr. PROXMIER. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. PROXMIER. On the Foreign Corrupt Practices Act, I was the author of the original bill last year and I was one of the opponents of the bill in the committee. But I think we have worked something out that accommodates both sides. I think we can dispose of that within a very short time and pass it by a voice vote.

Mr. BAKER. I thank the Senator. I am pleased for that evaluation.

Mr. President, let me put the unanimous consent request now and then I will yield to the distinguished Senator.

ORDER TO CONSIDER S. 708

Mr. President, I ask unanimous consent that, after the expiration of time allocated for the transaction of routine morning business but no earlier than 1 p.m., the Senate proceed to the consideration of the Foreign Corrupt Practices Act, Calendar Order No. 301, S. 708.

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

Mr. BAKER. I yield to the Senator from South Dakota.

S. 1692—IMPACT REPORT

Mr. ABDNOR. I thank the majority leader for yielding.

Mr. President, the Subcommittee on Water Resources, which I am proud to chair, has reported an amended version of S. 1692 to the full Committee on Environment and Public Works. This bill will help the Nation meet the President's goals for economic recovery, while accelerating the Nation's port development effort.

Unfortunately, a number of inaccuracies have been circulated regarding the impacts of this legislation. I would urge that my colleagues examine the bill with care, rather than to depend on outside characterizations of its impact.

To assist Members of the Senate and the public, the staff of the Committee on Environment and Public Works has prepared a report using data supplied by the U.S. Army Corps of Engineers and the Maritime Administration. This report analyzes the impact of S. 1692, along with other harbor cost-recovery options.

I would urge anyone interested in this issue to contact the Committee on Environment and Public Works in order to obtain a copy of this report. I will, of course, provide a copy of it to each of my colleagues for their personal review.

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I am prepared to yield to any Senator or to the minority leader.

RECOGNITION OF THE MINORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader.

The PRESIDING OFFICER (Mr. ABDNOR). The minority leader is recognized.

THE CONTINUING RESOLUTION CONFLICT

Mr. ROBERT C. BYRD. Mr. President, the continuing resolution which the President vetoed this morning, passed the Senate last night because 44 Republicans voted for it and only 6 Republicans voted against it. Two Democrats voted for it.

Another salient fact: Senator BAKER's amendment which included a 4-percent across-the-board cut to certain programs was supported by the President. Senator BAKER told the Senate that the President would sign the continuing resolution if it included Senator BAKER's cuts. Senator BAKER's cuts amounted to \$3.2 billion. By OMB's own estimates, the conference report cut \$2 billion.

Therefore, this entire dispute hinges on \$1.2 billion out of a bill providing funding for approximately \$430 billion. In other words, this entire so-called

crisis, with the tremendous inefficiencies in Government which it has created, is over a cut amounting to one-quarter of 1 percent of the bill.

This should suggest something about the nature of the dispute. It is clearly a tempest in a teapot. It is a manufactured shootout at the OK Corral. It is an attempt to divert attention from the real pressing issues of the day—a tremendous slowdown in economic activity, and a possible deficit in excess of \$100 billion in fiscal year 1982.

The budget cut which the President says he wants from this bill will barely be a drop in the bucket. The source of the problem is not Government spending, but a Kemp-Roth tax cut which was both irresponsible and unfair.

Another salient fact: The conference report contained a funding level of \$10.1 billion in foreign assistance. The administration has let it be known that it prefers the level of foreign assistance funding contained in the Senate bill, approximately \$11.5 billion.

So, while on the one hand the President is talking about deeper domestic budget cuts, his administration is also advocating significant increases in foreign military assistance.

How can we explain to the American people that fewer kids will get school lunches, college loans become more and more difficult to obtain, our roads and bridges will continue to fall in disrepair, and, yet, we want to increase the amount of money we send to foreign countries, principally to buy arms?

NO VALID OBJECTIONS REMAIN TO GENOCIDE TREATY

Mr. PROXMIER. Mr. President, the Genocide Treaty has awaited Senate ratification for over 30 years, and for over 30 years that ratification has been withheld. After reviewing the numerous objections which have been raised against the treaty, I am struck by the fact that no valid objections remain.

Over the past 30 years, the proponents of the treaty have refuted all objections raised against it time and time again. The Genocide Convention has been proven to be well within American legal and constitutional bounds.

What, then, is the Genocide Convention? Mr. President, the Genocide Treaty is nothing more than an affirmation of the value of human rights and human life. It constitutes a vital base from which international agreements to protect human life and political freedoms can proceed and expand. Over 80 nations have signed and ratified this worthy document, and yet, the United States remains conspicuously absent from that list.

We all know genocide is the planned, premeditated murder of an entire ethnic group.

The classic example was Hitler's virtual extermination of Jews in Europe

during and before World War II. That is what we want to outlaw.

It is appalling, Mr. President, that there should be any resistance to that kind of agreement, especially since all our allied countries have ratified the treaty that we have pushed.

Why is there any objection? Is there any validity to these seemingly perpetual objections which have prevented ratification of the treaty for so many years? The obvious answer is no. Whatever technical objections have been raised against the treaty are far outweighed by its advantages, and should no longer stand in the way of ratification.

Louis Henkin, a noted constitutional and international law expert, has eloquently summed up the impetus for the United States to pursue human rights legislation. I present his statement here, as it echoes my own feelings on this subject:

The United States, then, does not adhere to human rights covenants in order to distort or circumvent our constitutional system, to legislate greater human rights for its own citizens by treaty rather than by act of Congress or to take additional matters from the states into the federal domain; she adheres to such covenants in order to modify the behavior of other governments in ways that affect American interests.

What more can be said, Mr. President? The Genocide Convention has been shown to be in the interests of the United States. All charges against it have been refuted. I urge the Senate to ratify the Genocide Convention.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia does have 8 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, does the distinguished Senator from New Mexico wish to have some of my time?

Mr. SCHMITT. That will not be necessary, Mr. President. I can speak in morning business. I thank the minority leader for his courtesy.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

The Senator from New Mexico is recognized.

THE PRESIDENTIAL VETO OF THE CONTINUING RESOLUTION

Mr. SCHMITT. Mr. President, last night the Senate—correctly, I believe—passed the continuing resolution for fiscal year 1982 in order that the President could fully exercise his constitutional prerogatives in matters of this sort. I fully support the President's veto of that

continuing resolution as a means by which the vote of the American people entered the Halls of Congress. Members of the Committee on Appropriations, upon which I serve and upon which the distinguished Senator from Georgia (Mr. MATTINGLY), who is on the floor, serves, did the best they could in 56 hours of almost continuous negotiation with the House of Representatives on this continuing resolution. However, Mr. President, the spending levels in the bill which passed the Congress and now has been vetoed are at \$3.5 billion outside the levels the President could agree to in the earlier Senate version and \$6.5 billion higher than he had asked for in his September budget request.

Clearly, the American people would not expect the President to sign this legislation and set back the clock in efforts to bring Federal spending under control.

Mr. President, I worked, as others did, to mobilize support on the floor for passage of the continuing resolution even though we realized that the President had committed himself to veto that measure. I worked for passage of this legislation to give the President his constitutional veto opportunity to follow the mandate given to him by the American people, which, by every survey that I have seen, including some very recent ones in New Mexico, he still has.

This also gave the American people the opportunity to have their vote and their opinion felt in the Halls of Congress. The Presidential veto represents the actual interjection of the vote of these people directly into the congressional consideration of the continuing resolution. Now, with veto in hand, those of us in the Senate on this side of the aisle will have added leverage in the negotiations with the House on future spending measures that are outside the bounds necessary to bring the economy under control.

This will assist our efforts to control the unbridled growth of unnecessary Federal spending. Such unnecessary spending has been the principal cause of the persistently high inflation and interest rates.

Mr. President, recent surveys on issues among my constituents in New Mexico show the overwhelming majority of New Mexicans support the President in his budget reform efforts. There really was no other way to give President Reagan his constitutional opportunity except through last night's Senate passage of the continuing resolution. I not only support his veto action, I applaud the courage he has shown in taking that action in the face of the unbelievable pressures that come at a time when many of the functions of Government must grind to a halt. Now Congress must do its job in cutting unnecessary spending that it has tried to avoid for so long.

Mr. President, in that context, the Senator from Georgia and others and I have consistently said that no solution to this problem will be possible until we are willing to cap the growth of entitlement programs however genuinely necessary they may be which are, in fact,

growing without control of any kind. One of the principal reasons that the continuing resolution was \$3.5 billion above what the President had requested and agreed to finally was that the House version of the bill left out at least \$1.7 billion worth of entitlement funding that was going to be necessary and is going to be necessary in this fiscal year. They just left it out, assuming that they could do that and have it considered in a supplemental request and it would not be counted against this continuing resolution.

Actually, Mr. President, I am afraid that that number is going to end up something like \$2.5 billion unless we do something very quickly about entitlement programs.

In the consideration of the Senate bill on Labor, Health and Human Services, Education, and related agencies, the Appropriations Committee did consider at my request, although they did not act on it, a package of entitlement caps that generally would have returned to the States more of the responsibility to control spending on programs that they administer—unemployment compensation, medicaid, aid for dependent children, child support payments, and so forth.

In addition, as an illustration of another entitlement program that is growing totally out of control, it would have begun the process of capping the growth of guaranteed student loans. A portion of that total package my colleagues might be interested in would have provided in fiscal 1982 alone a saving of about \$1.3 billion. That number should illustrate just how rapid the growth of these entitlements has been.

One final illustration would be that in the budget before that subcommittee that I chair in appropriations—Labor, Health and Human Services, and Education—we deal with a budget of about \$85 billion. Mr. President, only \$28.1 billion of that \$85 billion was even in conference during this last weekend to which we could apply any savings requested by the President. We cannot continue that way. Next year, that number relative to the \$85 billion will probably be down close to \$21 billion. That is the amount of actual discretionary funds against which the Committee on Appropriations can apply its cuts.

So, as we go through the next 2 or 3 months, Mr. President, this Congress must deal with this problem because, unless we deal with the problem of the unbridled growth of these entitlement programs, we are going to continue to come back, just as we did last night, with continuing resolution after continuing resolution that will solve none of the problems that the American people have asked us to solve relative to reform of the spending practices of the Federal Government.

Mr. President, I yield on his own time to the Senator from Georgia (Mr. MATTINGLY) who has been a leader in this effort, and has offered proposals that are innovative and must be considered by

the Congress much more seriously than they have in the past.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I thank the Senator from New Mexico for those kind remarks. First, I want to begin by saying that I commend Senator BAKER, Senator HATFIELD, and Senator ROBERT C. BYRD for the job that has been done in the last few days. I think the Baker-Byrd amendment to the continuing resolution was a step forward in trying to control Federal spending. I think Senator HATFIELD should be commended for the job that he did during the 56 hours of negotiations on the continuing resolution.

Mr. President, as a member of the Appropriations Committee and a conferee who signed the report of the continuing resolution that the President vetoed this morning, I wanted my colleagues to know that I support the President's veto and voted for passage last night so the President could veto it and dramatize to the people of this country that the Congress has not done its job in reducing the budget.

But Mr. President, as much as I would like to tell about places in the budget that could be reduced or expose some of the pork barrel projects contained within that bill, I want to talk about what this Congress and this administration did not fully address in this resolution, or for that matter for this entire year.

What I want to talk about and demand action on is that 50 percent of our budget that we have refused to examine. What I want to see on this floor is a bill dealing with that part of the budget that went from \$70 billion in 1970 to \$295 billion in 1981. I want to see those both in the administration and the Congress who will do something about the "untouchables" the big "E"—entitlements.

I am pleased to be here today with Senator HARRISON SCHMITT. I say that because Senator SCHMITT has at every turn in the road reminded his colleagues on the Appropriations Committee—indeed the entire Senate—and this past weekend once again reminded Members of the conference about this significant problem. But more importantly, Mr. President, HARRISON SCHMITT has shown a willingness to act and lead the way on this problem. I praise him for his actions and for the discussion that we are about to have on this vital issue.

Mr. President, I suggest that this is a test of courage for the administration and for us here in Congress. I would point out that prior to 1972 the Congress had the responsibility for any increase in the entitlement programs. But in that year, when we raised retirement benefits 20 percent the Congress also tied all future increases beginning in 1975 for all entitlement programs to the CPI. In putting the system on automatic pilot, the Congress abrogated its responsibility and worse, nurtured the belief that these continued increases were somehow basic rights.

We, in this body, have no one to blame if this is allowed to continue but ourselves—not computers, not lack of studies—only lack of courage. I say to colleagues that we cannot defer this any longer. We cannot continue to go home and talk about the Federal Government getting its house in order when we refused to deal with 50 percent of its budget.

Mr. President, since I have been in the Senate, I have introduced legislation which if adopted would save approximately \$50 billion over the next 5 fiscal years. In addition, I supported an attempt on the continuing resolution just vetoed that would have saved us approximately \$2.6 billion this year.

These efforts have so far gone unrewarded in terms of providing more responsible programs. That is why, Mr. President, I welcome this discussion with my good friend, HARRISON SCHMITT, because I know that like me, he stands willing to act. It is my hope that by this discussion we can enlighten our colleagues and that over the holidays they will think about this and return ready to act.

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

Mr. MATTINGLY. I yield.

Mr. SCHMITT. If we do not do what the Senator has so strongly and eloquently suggested, then it is the education programs, the health programs, the student financial aid programs, the vocational educational programs, the health research programs—it is all these things that are going to suffer, because they are the so-called discretionary programs. They are the only ones that, right now, Congress can legally cut, when we need to reduce the rate of growth of Federal spending. We cannot do that any longer. Those programs are disappearing.

That is why there is so much difficulty in this process. We cannot get to where the main abuses of Federal budget authority occur, and that is in the uncapped, indefinite growth of what is commonly referred to as the entitlement programs.

The Senator is absolutely correct. We just have to do something. It is that simple.

Mr. MATTINGLY. I believe that now is the time to approach the big "E," and I am sure that my good friend from the Finance Committee will agree.

I ask the Senator from New Mexico if he will also agree with this; that 62 percent of all these payments, transfers, do not go to the poorest 20 percent of the families. Is that not correct?

Mr. SCHMITT. That is my understanding. The Senator is correct.

Mr. MATTINGLY. Then, obviously, what needs to be done is that we probably need to cut the safety net from under the politicians, so that we can make a secure safety net for the American public, the taxpayers, and those who do receive entitlements.

Mr. SCHMITT. There is no question that there are many Americans who, in a variety of economic conditions and a

variety of fiscal conditions, are unable to provide for their own well-being. I think this country long ago decided that it was the responsibility of Government—local, State, and Federal—to insure that people who had no alternative but governmental assistance receive that assistance. Unfortunately, it has gone so far that there is no longer any incentive for others outside of that group to exercise the alternatives they have to provide for their own well-being.

That is what we are talking about. We are not talking about removing the safety net. In fact, we are talking about strengthening it underneath those people who have no alternatives but Federal assistance.

However, for those who do have alternatives, we must provide the incentives—in some cases, gradually—for them to seek other alternatives, while at the same time we rejuvenate the economy overall, so that those alternatives in the private sector are there and available for those who have not been exercising them up to the present time.

Mr. MATTINGLY. I agree with the Senator from New Mexico.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HUMPHREY. Mr. President, it is well that the President has chosen to veto the continuing resolution sent to him by Congress yesterday.

What this Senator should like to point out is that perhaps too much is being made of this veto action and perhaps too much is being made of it by the White House.

Though large in absolute terms, the amounts of money involved are relatively small in comparison with the huge deficits which are looming in the outyears. I applaud the veto, and I hope the President will veto every spending proposal which exceeds his request, because Congress is falling into its old bad habits and showing, once again, that it does not have the discipline to bring spending into line with revenues.

So the President must be relied upon to provide that discipline, and I hope he uses it liberally. I, for one, will support him in sustaining this veto if that is necessary.

However, I point out once again that perhaps too much is being made of this particular veto of this particular resolution, involving in excess of several billion dollars of what the President wishes.

For the White House to be making such a big issue of this veto is about the same as someone visibly slapping a mosquito on his wrist and making a big scene out of that, when just a few feet away is a rattlesnake about to strike.

My colleagues from Georgia and New Mexico are absolutely right: There is no hope of avoiding fiscal and economic disaster until the White House gets its courage up and decides to address the entitlement programs. We cannot continue to focus our budget cutting attention on the 17 percent of the budget which remains after you exclude defense and

entitlement programs and expect to have very much further success.

So I am one Senator who urges the White House to open up this question of entitlement programs, which it has shied away from since the situation with respect to the social security proposals of a few months ago. This is a time which calls for courage. We will not succeed in an economic or political sense unless the White House begins to show that courage. There are a growing number of Senators and Members of the House who are ready to address that question, realizing that there is no other choice.

IOWA GOES TO THE ROSE BOWL

Mr. JEPSEN. Mr. President, it gives me great pleasure to stand here today and say that I am from the great State of Iowa—a State today chilled by the early winter cold—yet a State warmed by thoughts of a New Year's Day celebration in Pasadena, Calif.

For 19 long years, the Iowa Hawkeyes have not had a winning season—until this year. For 23 long years, the Iowa Hawkeyes have quietly folded their jerseys and stored their cleats at the end of November—until this year.

Mr. President, it fills me with a great sense of pride to declare that the long drought is over—that not only have the Hawkeyes fought their way to a winning season—they have fought their way to the father of all bowl games—the Rose Bowl.

After being down for so long, being on top feels that much better for Hawkeye fans, and I think I am safe in saying that today every Iowan is a Hawkeye fan. We have a lot of reasons to love our football in Iowa; the Iowa State Cyclones ranked in the top 10 earlier this year, the Bulldogs of Drake University own at least a share of the Missouri Valley Conference title, and the Panthers of northern Iowa, just to name a few of the exciting teams we have in our State. But I am sure that they all join me in declaring that this is the year of the Hawks.

Mr. President, that Iowa enthusiasm goes all the way to the top. As you may know, back in 1932, as a new graduate of Eureka College in Illinois, Ronald Reagan had the pleasure of starting to broadcast Iowa football games for WHO radio in Des Moines. When I was at the White House last month to talk with President Reagan, I had the chance to bring him up to date on the Hawkeyes, and he was as excited as the rest of us.

I congratulate Coach Hayden Fry and all of the Hawkeyes for their courage and their fortitude on reaching this peak. And I congratulate the Hawkeye fans for their spirit and their patience through these past 19 years.

Mr. President, the people of Iowa have asked me to give a two-word message to my distinguished colleagues from the State of Washington, our opponents on New Year's Day. Those two words are: "Go Hawkeyes."

Thank you, Mr. President.

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

Mr. JEPSEN. I yield.

Mr. THURMOND. Mr. President, I am not as familiar with the Hawkeyes as the able Senator from Iowa, but I congratulate the Hawkeyes for having such two able distinguished Senators here as Senator JEPSEN and Senator GRASSLEY.

Mr. JEPSEN. I thank the Senator. Coming from the President pro tempore that is, indeed, a very high compliment and helps make this rather bleak day more pleasant. I thank the distinguished Senator.

The PRESIDING OFFICER. Who seeks recognition?

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

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

CONCLUSION OF MORNING BUSINESS

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

BUSINESS ACCOUNTING AND FOREIGN TRADE SIMPLIFICATION ACT

Mr. STEVENS. Mr. President, I ask that the clerk lay before the Senate Calendar Order No. 301, S. 708, a bill to amend and clarify the Foreign Corrupt Practices Act of 1977.

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

The legislative clerk read as follows:

A bill (S. 708) to amend and clarify the Foreign Corrupt Practices Act of 1977.

The Senate proceeded to consider the bill which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Business Accounting and Foreign Trade Simplification Act".

FINDINGS AND CONCLUSION

SEC. 2. (a) The Congress finds that—

(1) the enactment of the Foreign Corrupt Practices Act of 1977 was a positive and significant step toward the important objective of prohibiting bribery of foreign government officials by United States companies in order to obtain, retain, or direct business;

(2) The Foreign Corrupt Practices Act of 1977 has caused unnecessary concern among existing and potential exporters as to the scope of legitimate overseas business activities;

(3) the accounting standards requirements of the Foreign Corrupt Practices Act of 1977, which apply to all issuers of securities irrespective of whether they have foreign operations, are unclear and excessive and have caused costly and unnecessary paperwork burdens;

(4) United States agencies responsible for enforcement of the Foreign Corrupt Practices Act of 1977 have not sufficiently coordinated

interpretation and enforcement practices with other agencies responsible for international trade policy, export promotion, foreign policy, international monetary policy, and other related civil and criminal statutes; and

(5) it is in the best interests of all countries to maintain responsible standards of corrupt conduct in foreign markets to preserve free and equitable trading practices.

(b) The Congress concludes that—

(1) the principal objectives of the Foreign Corrupt Practices Act of 1977 are desirable, beneficial, and important to our Nation as well as to our relationships with our trading partners, and these objectives should remain the central intent of the Act;

(2) exporters should not be subject to unclear, conflicting, and potentially damaging demands by diverse United States agencies responsible for enforcement of the Foreign Corrupt Practices Act of 1977;

(3) general compliance and enforcement practices associated with the Foreign Corrupt Practices Act of 1977 should be developed in accordance with considerations underlying foreign policy relations, international trade, export promotion, international monetary policy, and other related civil and criminal statutes; and

(4) a solution to the problem of corrupt payments by firms to obtain or retain business demands an international approach; accordingly, appropriate international agreements should be initiated and sought by the United States agencies responsible for trade agreements and by the President.

AMENDMENT OF SHORT TITLE

SEC. 3. Section 101 of the Foreign Corrupt Practices Act of 1977 is amended to read as follows:

"SHORT TITLE

"Sec. 101. This title may be cited as the 'Business Practices and Records Act.'"

ACCOUNTING STANDARDS

SEC. 4. (a) Section 13(b)(2) of the Securities Exchange Act of 1934 is amended to read as follows:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

"(A) transactions are executed in accordance with management's general or specific authorization;

"(B) transactions are recorded as necessary (i) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (ii) to maintain accountability for assets;

"(C) access to assets is permitted only in accordance with management's general or specific authorization;

"(D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and

"(E) for the purposes of subparagraphs (A) through (D) of this paragraph, the issuer makes and keeps books, accounting records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer."

(b) Section 13(b) of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following:

"(4) A person shall be liable in any action or proceeding arising under paragraph (2) only—

"(A) for knowingly falsifying, or causing to be falsified, any book, accounting record, or account described in paragraph (2);

"(B) for knowingly failing to make or

keep a book, record, or account described therein;

"(C) for knowingly failing to maintain a system of internal accounting controls which is consistent with the purposes of paragraph (2); or

"(D) for knowingly attempting to circumvent the internal accounting controls established pursuant to paragraph (2).

"(5) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, including the relative degree of its ownership over the domestic or foreign firm and under the laws and practices governing the business operations of the country in which such firm is located, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such an issuer shall be conclusively presumed to have complied with the provisions of paragraph (2) by demonstrating good faith efforts to use such influence."

REPEALER; NEW BRIBERY PROVISION

SEC. 5. (a) (1) Section 30A of the Securities Exchange Act of 1934 is repealed.

(2) Section 32 of such Act is amended—

(A) by striking out "(other than section 30A)" in subsection (a); and

(B) by striking out subsection (c).

(b) Section 104 of the Business Practices and Records Act is amended to read as follows:

"FOREIGN PAYMENTS

"Sec. 104. (a) It shall be unlawful for any domestic concern, or any officer, director, employee, or shareholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of a payment, gift, offer, or promise, directly or indirectly, of anything of value to any foreign official for the purpose of—

"(1) influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of his legal duty as a foreign official; or

"(2) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality;

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person.

"(b) It shall be unlawful for any domestic concern, or any officer, director or employee, or shareholder thereof acting on behalf of such domestic concern to make use of the mails or any means or instrumentality of interstate commerce corruptly to direct or authorize, expressly or by a course of conduct, a third party in furtherance of a payment, gift, offer, or promise of anything of value to a foreign official for any of the purposes set forth in subsection (a).

"(c) Subsections (a) and (b) shall not apply to—

"(1) any facilitating or expediting payment to a foreign official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, as distinguished from governmental action in which the exercise of judgment by the foreign official is a significant factor;

"(2) any payment, gift, offer, or promise of anything of value to a foreign official

which is lawful under the law and regulations of the foreign official's country;

"(3) any payment, gift, offer, or promise of anything of value which constitutes a courtesy, a token of regard or esteem, or in return for hospitality;

"(4) any expenditures, including travel and lodging expenses, associated with the selling or purchasing of goods or services or with the demonstration or explanation of products; or

"(5) any ordinary expenditures, including travel and lodging expenses, associated with the performance of a contract with a foreign government or agency thereof.

"(d) (1) (A) Except as provided in subparagraph (B), any domestic concern which violates subsection (a) or (b) shall, upon conviction, be fined not more than \$1,000,000.

"(B) Any individual who is a domestic concern and who willfully violates subsection (a) or (b) shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(2) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) or (b) shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(3) Whenever a domestic concern is found to have violated subsection (a) or (b) of this section, any employee of such domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, employee, or stockholder of a domestic concern, such fine shall not be paid, directly or indirectly, by such domestic concern.

"(e) (1) When it appears to the Attorney General that any domestic concern, or officer, director, employee, or stockholder thereof, is engaged, or is about to engage, in any act or practice constituting a violation of subsection (a) or (b) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent or temporary injunction or a temporary restraining order shall be granted without bond.

"(2) For the purpose of all civil investigations which, in the opinion of the Attorney General, are necessary and proper for the enforcement of this Act, the Attorney General or any attorney or attorneys of the Department of Justice designated by him are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person

to appear before the Attorney General or attorney designated by the Attorney General, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. The Attorney General shall have the power to make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(f) As used in this section—

"(1) The term 'domestic concern' means (A) any individual who is a citizen, national, or resident of the United States; or (B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States, which has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or which is required to file reports under section 15(d) of the Securities Exchange Act of 1934.

"(2) The term 'foreign official' means (A) any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality; or (B) any foreign political party or official thereof or any candidate for foreign political office."

DEFINITIONS

Sec. 6. Section 13(b) of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following:

"(6) For the purpose of this section, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent individuals in the conduct of their own affairs, having in mind a comparison between benefits to be obtained and costs to be incurred in obtaining such benefits."

EXCLUSIVITY PROVISION FOR OVERSEAS BRIBERY

Sec. 7. No criminal action pursuant to section 1341 or 1343 of title 18, United States Code, may be brought against a domestic concern, its officers, directors, employees, or shareholders based upon the theory that, by receiving a corrupt payment, the foreign official violated his fiduciary duty to his government or to the citizens of his country. Nothing in this section limits the applicability of the provisions of section 1341 and 1343 of title 18, United States Code, to any other kind of scheme to defraud.

AUTHORITY TO ISSUE GUIDELINES

Sec. 8. Title I of the Business Practices and Records Act is amended by adding at the end thereof the following:

"GUIDELINES AND GENERAL PROCEDURES FOR COMPLIANCE

"Sec. 105. (a) Not later than six months after the date of enactment of this section, the Attorney General, after consultation with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury, and after consultation with representatives of the business community and the interested public through public notice and comment and in public hearings, shall determine to what extent the business community would be assisted by further clarification of section 104 of this Act and shall, based on such determination and to the extent necessary and appropriate, have the authority to issue—

"(1) guidelines describing specific types of conduct associated with common types of export sales arrangements and business contracts which the Attorney General determines constitute compliance with the provisions of section 104 of this Act; and

"(2) general precautionary procedures which issuers or domestic concerns may use on a voluntary basis to ensure compliance with this Act, and to create a rebuttable presumption of compliance with this Act.

The guidelines and procedures referred to in the preceding sentence shall be issued in accordance with sections 551 through 557 of title 5, United States Code.

"(b) The Attorney General, after consultation with other Federal agencies and representatives from the business community, shall establish a Business Practices and Records Act Review Procedure for the purpose of providing responses to specific inquiries concerning enforcement intentions under this Act. The Attorney General shall issue opinions, within thirty days, in response to requests from domestic concerns, regarding compliance with the requirements of the provisions of section 104 of this Act. An opinion that certain prospective conduct does not involve a violation shall be final and binding on all parties, subject to the discovery of new evidence. When appropriate, and at reasonable intervals, the responses derived from the review procedure will be reviewed by the Attorney General to determine whether such compilation of responses should be included in a new guideline pursuant to subsection (a).

"(c) Any document or other material provided to, received by, or prepared in the Department of Justice, or any other department or agency of the United States Government, in connection with a request by a domestic concern for a statement of present enforcement intentions under the Business Practices and Records Act Review Procedure pursuant to subsection (b) of this section, or in connection with any investigations conducted to enforce this Act, shall be exempt from disclosure under section 552 of title 5, United States Code, regardless of whether the Department responds to such a request or the applicant withdraws such request prior to receiving a response. The Attorney General shall protect the privacy of each applicant, and shall adopt rules assuring that materials, documents, and information submitted in connection with a review procedure request will be kept confidential and will not be used for any purpose that would unnecessarily discourage use of the review procedure. The review procedure shall be developed and instituted in accordance with sections 551 and 557 and 701 through 706 of the title 5, United States Code.

"(d) The Attorney General shall make a special effort to provide timely compliance guidance to potential exporters, and smaller businesses, who as a practical matter are unable to obtain specialized counsel on issues pertaining to this Act. Such assistance shall be limited to requests for enforcement intention disclosures provided for under this Act, and general explanations of compliance responsibilities and of potential liabilities under the Act.

"(e) (1) On September 1 of each year the Attorney General shall transmit to the Congress and make public a detailed report on all actions which the Department of Justice has taken pursuant to this Act, along with its views on problems associated with implementation, its plan for the next fiscal year to further implement the Act, and recommendations for amendments.

"(2) On September 1 of each year the Chairman of the Securities and Exchange Commission shall file with the Congress a detailed report on all actions which the Commission has taken pursuant to section 13(b) of the Securities Exchange Act, its

views on problems associated with implementation, its plans for the next fiscal year to further implement such section, and its recommendations for amendment."

CONFORMING CHANGES IN INTERNAL REVENUE CODE

Sec. 9. Paragraph (1) of section 162(c) of the Internal Revenue Code of 1954 (relating to illegal payments to government officials or employees) is amended—

(1) by striking out "the laws of the United States if such laws were applicable to such payment and to such official or employee" and inserting in lieu thereof "the Business Practices and Records Act"; and

(2) by striking out "(or would be unlawful under the laws of the United States)" and inserting in lieu thereof "(or would be unlawful under the Business Practices and Records Act)".

INTERNATIONAL AGREEMENTS

Sec. 10. (a) It is the sense of the Congress that the President should pursue the negotiation of bilateral and multilateral agreements among the largest possible number of nations which would establish standards of conduct for international business practices and which would create a process by which problems and conflicts associated with such practices could be resolved, and to explore through negotiations an international agreement for rates of commissions.

(b) It is the sense of the Congress that, within one year after the date of enactment of this Act, the President shall report to Congress on the progress of these negotiations, and those steps which the administration and Congress should consider taking in the event that the negotiations referred to in subsection (a) do not successfully eliminate the competitive disadvantage of United States business.

(c) Not later than one year after the date of the enactment of this Act, the President shall submit to the appropriate committees of the Congress a report identifying and assessing the legal and practical consequences of specific action that the United States could take under existing law—

(1) to promote cooperation by other nations in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries; and

(2) to encourage persons or business enterprises organized and operating in other nations to refrain from engaging in bribery of foreign officials, candidates, or parties in third countries to the commercial and competitive disadvantage of the overseas operations of United States industry.

This report shall also include recommendations for any new legislation required to give the President authority to take appropriate action to achieve such objectives. The report shall contain an analysis of the potential effect on the interests of the United States including United States national security of the corruption of foreign officials and political leaders in connection with international business transactions involving persons and business enterprises of other nations. In addition, the report shall assess the current and future role in curtailing such corruption of private initiatives such as the Recommendations to Governments and Rules of Conduct to Combat Extortion and Bribery developed by the International Chamber of Commerce.

Mr. STEVENS. 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. HEINZ. 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. HEINZ. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 708.

Mr. HEINZ. I thank the Chair.

Mr. President, I ask unanimous consent that, for the consideration of the Foreign Corrupt Practices Act and for votes thereon, the following members of the Senate Banking Committee staff be accorded the privileges of the floor.

Dan Wall, Howard Menell, John Daniels, Paul Freedenberg, Wayne Abernathy, Lyle Rushton, and Lindy Marinaccio.

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

Mr. HEINZ. Further, Mr. President, I ask unanimous consent that Mr. Bill Reinsch, of my staff; Christine Bliss of Senator CHAFEE's staff; Bill Mattea, of Senator DIXON's staff; and Diane Sanger, of Senator D'AMATO's staff be accorded the same privileges.

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

Mr. HEINZ. Mr. President, today we take up S. 708, the amendments to the Foreign Corrupt Practices Act, which is the third major piece of legislation to help American exports that the Senate has taken up this year. In April, we passed the Export Trading Company Act of 1981. That legislation is now pending over in the House.

I am optimistic about the possibility of action therein this Congress. In July we passed major tax legislation which included a provision reforming the tax treatment of Americans working abroad, sections 911 and 913. That measure is now law. Today we take up the third item on our export agenda, S. 708, amendments to the Foreign Corrupt Practices Act.

There is no question, Mr. President, that these export bills are necessary. Emphasis on exports is necessary because the 1980 trade deficit was \$36.4 billion, and the 1981 deficit threatens to be in the same range. Imports of consumer goods are growing, and oil price increases have added to the deficit even while we are reducing the quantity of imported oil.

Equally significant, the current account, which includes services and investment income as well as trade, is sure to slip into deficit this year after 2 years of modest surpluses. In the past some have suggested that because exports were growing and the current account was in surplus, the export crisis is overblown. In short, we are already doing enough.

Well, Mr. President, I would suggest, first, that one can never do enough to encourage exports, and second that the latest data make clear that recent progress was due in large part in a falling dollar and not to generic improvement in our exporting position. Now a rising dollar is putting us back into the same disadvantaged position we were in several years ago. We continue to lose ground and market share to our trading competitors. My subcommittee's export agenda—Export Trading Companies, Foreign Corrupt Practices Act amendments, expanded Export-Import Bank authority—will provide some permanent

improvements irrespective of the status of the dollar.

I particularly want to note at the beginning of my statement the bipartisan nature of the effort that has developed this bill. Originally introduced by the Senator from Rhode Island (Mr. CHAFEE), who has for two Congresses been on the cutting edge of this issue, it underwent a number of modifications in committee through the efforts of Senator CHAFEE, Senator D'AMATO, Senator DIXON, Senator DODD, Senator RIEGLE, Senator PROXMIER, and myself. Ultimately the bill was reported by a bipartisan majority vote of 11 to 4.

I emphasize this bipartisan spirit, Mr. President, because of the potential for controversy lurking in this bill. The Foreign Corrupt Practices Act was originally signed into law in 1977 in response to revelations of corporate bribes and payoffs in the mid-1970's. I expect my colleague, Senator PROXMIER, will have more to say about the history and origins of the current law in his statement. Let me summarize its rationale by saying it was intended to force corporations to "clean up their acts" and to set a higher standard of behavior for American business, a standard we hoped would subsequently be adopted by others after multilateral negotiations.

These are laudable goals. Yet today we are proposing significant changes in the law designed to achieve them. While it will be tempting for people to describe these changes as weakening our commitment to corporate honesty or as "gutting" the law, if you look at the record of the committee's work on this bill you will see that neither the way we proceeded nor the results we produced verify that charge.

Mr. President, at this time I would like to take special note of the tremendous understanding, patience, and diligence of the Senator from Wisconsin, Senator PROXMIER, who, at every turn, has given the benefit of his experience and his insight, into making sure that the legislation before us really was a workmanlike product, a product which we could bring to the floor with a good deal of pride.

With respect to procedures that Senator PROXMIER and I agreed to, Mr. President, the committee held 5 days of hearings spanning 3 months and including 29 witnesses. Most significant, every witness requested by the minority was invited to appear. Some declined, but I don't think anyone can argue the hearings did not fully represent all sides of this issue or that the requests of opponents of the bill were not honored.

Additionally, at the request of the minority, we postponed markup on the bill for 6 weeks—over the August recess—to permit all Members to better study the complex issues raised by the bill. During that time, the staff, in consultation with Senator D'AMATO and myself, developed a committee print which made a number of changes in S. 708 to accommodate concerns raised by the minority and to correct drafting errors. Ultimately the committee print was adopted—also by a bipartisan vote—and the bill reported with an additional clarifying amendment.

In particular, Mr. President, I want to

pay my respects to Senator PROXMIRE for his partnership, his very critical insights into the work of the subcommittee and the committee on this bill, and, of course, to its principal sponsors, Senator CHAFFEE, Senator D'AMATO, Senator DIXON, and others. In short, Mr. President, we have proceeded slowly and carefully, as befits a bill this complex and important.

With respect to our product, Mr. President, obviously thoughtful people of good will will differ on its merits, and I have no expectation that this bill will be approved unanimously. I do, however, want to make clear our intent, a subject which I am sure the Senator from Rhode Island (Mr. CHAFFEE), the bill's original author, will discuss as well. Very simply, what we are trying to do is not weaken this law but clarify it. We are not reopening the door to corrupt payments. We are eliminating doubt as to what constitutes a corrupt payment and when a corporation is liable.

In that regard, the present law has some serious deficiencies. In the accounting section, present law potentially makes a corporation liable for the smallest accounting error—whether material or not, whether intentional or not, whether related to a corrupt payment or not. In fact, as the legislative history of this section makes clear, it is not an anticorruption section at all, but rather broad authority for the SEC to prosecute books and record errors.

In the words of former SEC Chairman Harold Williams in a policy statement discussing the accounting provisions:

The anxieties created by the Foreign Corrupt Practices Act—among men and women of utmost good faith—have been, in my experience, without equal.

The committee clearly felt that the scope of this section of the law is too broad. Any accountant will tell you that some corporate books and records are inevitably inaccurate, that no internal control system can be devised that will prevent all errors or make falsifications impossible, and that it serves no purpose to hold the company liable for every error.

Furthermore, the threat of lengthy and costly investigations to discover minor or inadvertent mistakes has inevitably led to overly cautious behavior by corporations which have no desire to violate the law. It does not help businesses faced with such laws to say simply that the SEC and the Justice Department would not act against minor, unintentional violations.

This kind of argument, in my view, makes clear what is wrong with present law and what is right about S. 708. The latter provides the necessary certainty. What is a minor violation? What is immaterial? How do businesses know what the SEC or Justice Department might or might not do, when the law has such a broad reach? The purpose of S. 708 is to write a law which, on its face, will answer those questions.

The original version of S. 708 dealt with this problem through the inclusion of a "materiality" standard—liability would obtain only for material violations. Not surprisingly, this concept ran into the same criticism that has been

applied to present law. "Materiality" is a fuzzy term that also provides no certainty, and there was no widespread agreement as to how it should be defined. It could only be adequately defined through litigation, and it is our specific purpose to write a law that will reduce litigation, not increase it.

Accordingly, the reported version of the bill drops the concept but at the same time attempts to deal with the deficiencies of the too inclusive present law by incorporating the statutory reference to accurate books and records into the parallel requirement to maintain an internal accounting system.

This removes the free standing books and records provision but at the same time does not fully deal with the question of intent or of minor violations. In its deliberations on this point the committee resolved the issue tentatively but agreed to pursue a more widely acceptable resolution. I am pleased to report that Senators PROXMIRE, D'AMATO, CHAFFEE, and myself have reached agreement on an amendment that further clarifies this section. I will comment a bit more on this question when that amendment is offered.

I will discuss this amendment in greater detail later, but it does seem to me to resolve fairly the controversies in this part of the bill.

The other major part of the bill is its amendment to section 104 of the Foreign Corrupt Practices Act, which is the section defining and making illegal foreign corrupt payments.

The major difficulty of present law relates to its language concerning the relationship between a corporation and a third party, usually an agent, when it is the latter that actually makes the prohibited payment. This is a central issue because in many countries foreign companies are either required by law or encouraged by custom and other means to deal with the government through a national of that country.

In other countries where the bureaucracy is complex or corrupt, or where the language or social customs are difficult for Westerners, it is clearly in U.S. company's interest to employ an agent. Smaller businesses tend to be particularly dependent upon agents in their export activities.

Present law defines the company-agent relationship by making the company liable if it knows or has reason to know that the agent has made a corrupt payment. The reason-to-know language has been the source of the greatest uncertainty, complicated by the absence of useful guidance from the SEC or the Justice Department as to what the term might mean. This has led to assertions of breadth of coverage which themselves are breathtaking and which would totally cripple U.S. corporate activities in certain countries, were the law aggressively enforced in that way.

John Fedders, formerly a lawyer advising clients in this field and now the Director of the SEC's Division of Enforcement, in an excellent analysis of this part of the law in Middle East Executive Reports, has summarized the various contentions about what "reason to know"

has been at various times construed to mean. It is worth reading because it so clearly illustrates the point I am trying to make.

First. Country in question. Some persons suggest that in countries where bribery of government officials is commonplace, "reason to know" will be presumed in all cases. Others suggest that rumors about questionable practices in certain countries make all transactions there suspect.

Second. Reputation of agent. Because of the bribery disclosures of the 1970's, some agents are notorious for their alleged misconduct. If a U.S. entity employs one of these agents, it is suggested that the businessman must assume that some of the fee will be paid to a foreign official.

Third. Amount of commission. Some persons suggest that if an agent requests or is paid a commission greater than the "going rate" there is "reason to know" that part of the fee will be improperly paid to a foreign official.

Fourth. Agent's refusal to make representations. If an agent refuses to provide representations or covenants—about his business activities—it is suggested that the U.S. entity has "reason to know" that the agent's conduct will not be lawful.

Fifth. Family or business relationship. Finally, some suggest that an agent's family or business relationship with foreign officials, particularly in certain countries, creates a substantial probability that part of the agent's fee will be paid to a foreign official.

Now I think the authors of the original law would be hard put to argue that that is what they meant when they wrote this section, but that is precisely the impression business has been given. And it is not enough to respond by saying these more extreme cases have not been prosecuted, because the relevant issue is still uncertainty and the impact it has on business operations.

It is of small comfort to an executive when his lawyer tells him he may be liable under the law—personally and corporately—but not to worry because the Government may not prosecute, or if it does, he might not be convicted. The executive's obligation to himself and his company is to avoid uncertainty, avoid publicity, and avoid the time and expense of a lengthy investigation or court case.

Ironically, this problem bears great resemblance to a similar controversy we have had on the export trading company bill. Title II of that bill provides an anti-trust preclearance procedure. Its intent is to draw a clearer line between what is legal and what is not in this area. It does not change existing antitrust law in the slightest. Opponents argue that existing law, vague though it is, and Justice Department guidance in this area are sufficient. But they ignore the fact that that guidance is usually filled with qualifying words like "unlikely," and "at the present time."

Such guidance, of course, is useless in the real world since "unlikely" has no definitive force, "present time" means today only, and in any event private

party suits are not precluded. As in the case of the Foreign Corrupt Practices Act, the issue is uncertainty. The businessman does not want to be told he might be OK, or that he will probably win his case. He wants to be told when there would not be any case—and when there will. I think it is our responsibility to do the best we can to meet that standard.

To my mind, the most important thing S. 708 as reported does is to remove the reason to know standard, basically replacing it with a "directs or authorizes" standard. By itself this makes clear that a company is liable for an agent's corrupt payment if it has directed or authorized it. In other words, there would have to be some overt act or statement on the part of the company.

It was my judgment, however, which the committee shared, that we also need to go a step farther than that and cover those situations where the company literally puts its head in the sand and intends to avoid knowing what its agent is doing, or where a company authorizes a corrupt payment through words or actions that are not explicit. This is clearly not a "reason to know" standard or "should have known" standard, but rather a standard based on the company's words or actions that takes into account, however, that such words or conduct do not need to be only an explicit on-the-record direction to establish the company's intent.

After much discussion, I offered in committee an amendment to add the words, "expressly or by a course of conduct," after "directs or authorizes," and to further explain the new phrase with specific report language intended to provide definitive guidance to business and to those who enforce this statute. The amendment was agreed to, and I think it would be helpful in this debate to read the brief excerpt of report language that the committee specifically adopted along with the amendment.

The Committee intends the term "course of conduct" used with the term "authorize" in Section 104(b) to refer to those situations where a company, through its words or course of conduct, has intended that a corrupt payment be made. For example, a company's refusal or failure to respond to an agent's suggestion or request that a corrupt payment be made would violate this section, as would a company's continuing employment of an agent known to the company to have made corrupt payments in the preceding two years in violation of applicable U.S. laws or those of the country in question.

On other other hand, the mere fact of doing business in a country where corrupt payments are common, or the employment of an agent with personal relationships with government officials in the country where the company seeks to do business would not establish such a course of conduct.

Similarly, the payment of a commission that is higher than customary would not by itself violate this section without evidence that the increased amount of commission is intended to permit a corrupt payment to be made.

The Committee believes that this standard will result in liability being imposed in overseas bribery cases brought under this Act if liability would also be imposed if the case were subject to domestic bribery law.

This latter statement about the parallel liability under domestic bribery law refers to established complicity principles of criminal law.

This amendment has also raised some question with respect to the term "directly or indirectly" as it appears in section 104(a).

As stated in the committee report, section 104(a) therefore refers solely to situations in which a prohibited payment is made by one of the persons listed in section 104(a) through some circuitous, that is, indirect means; it is not intended to have any application where the payment is made by a third party.

Another section of controversy is the section exempting so-called "facilitating" payments from the scope of the act. This exemption is also in current law, but it is not clearly defined in a way that anyone has found useful. The idea is that in many countries payment of a small gratuity, usually to minor officials to get them to perform their legal duties, is pervasive and is in fact the only way to secure the services to which one is entitled. By the standards of such countries these are not corrupt payments. If anything, they are an integral—and inevitable—part of doing business.

An example would be payments to customs or dock officials to get one's merchandise unloaded, appropriately stamped and cleared and entered into the country. On the other hand, a payment to obtain the entry of illegal goods, or a payment to get them misclassified so as to pay a lower duty would not be the same kind of routine governmental activities that should fall within the facilitating payment definition.

In its consolidation and redefinition of this concept, the committee chose to focus on the purpose of the payment and the type of action involved rather than the rank of the person receiving the payment, as in present law. S. 708 makes clear that the concept of a facilitating payment covers payments for routine governmental actions not involving judgment, and ordinary expenditures in certain cases, including those associated with the performance of a contract with a foreign government or agency, token payments intended as a courtesy, and payments legal in the country where made.

These terms are still less precise than one would wish, but in my judgment they represent a significant improvement over present law.

Finally with respect to section 104, the committee's report contains an error in failing to reflect accurately a minor amendment which was made by the committee. On page 18 of the report, in a discussion of the exceptions to the bribery prohibitions in section 104, there is a reference to "Ordinary or customary expenditures associated with the performance of a contract."

The reference to "customary" expenditures is not contained in the bill as reported by the Banking Committee, but had been a part of earlier formulations of some of the exceptions. Consequently, this reference to "customary" expenditures in the report should be disregarded.

There are also other provisions of the bill worth noting:

Section 5(a) would place in the Justice Department all jurisdiction for enforcement of the antibribery provisions of the act. The SEC would remain responsible for civil enforcement of the internal accounting controls provision.

Subsection (d) of the section 104 rewrite would continue the civil and criminal penalties provided for in current law: \$1,000,000 maximum fine for domestic concerns; for individuals a maximum fine of \$10,000 and/or up to 5 years imprisonment.

Section 7 provides that this act would preclude the possibility of criminal prosecution against any person or firm alleging that the mail or wire fraud laws have been violated as a result of a foreign corrupt payment, where the prosecution is based upon the theory that the foreign official violated a fiduciary duty.

Section 8 would authorize the Attorney General, after consultation with the U.S. Trade Representative, the Secretary of State, the Secretary of Commerce, the Secretary of the Treasury, and representatives of the business community and the public, to issue guidelines to assist in compliance with the antibribery provisions. Procedures would be established for firms to request interpretative guidance from the Justice Department, with responses required to be made within 30 days.

Section 8 would also call upon the Attorney General and the Chairman of the SEC to submit detailed annual public reports of their respective agency's actions taken pursuant to the act, its views on associated problems, plan for the next fiscal year, and recommendations, if any, for amendment of the act.

Section 10 declares it is the sense of the Congress that the President pursue negotiations to establish international cooperation in the prohibition of bribery. It provides for reports to the Congress on the progress of such negotiation, including suggestions for appropriate congressional action, and the consequences of potential action that can be taken under existing law to effect international cooperation for the elimination of bribery.

With respect to section 10, which calls for reports on the progress of multilateral negotiations, after some discussion with the State Department, I have concluded the section is poorly drafted, redundant, and not fully reflective of our objectives. Accordingly, I will later offer an amendment to revise this section.

Finally, Mr. President, I should say a word about the budgetary impact of this bill. The Congressional Budget Office has estimated that the Department of Justice would require \$0.4 million in fiscal year 1982, \$0.7 million in each of fiscal years 1983 and 1984, and \$0.8 million in each of fiscal years 1985 and 1986, to implement the revised guidelines and procedures for compliance required by S. 708.

I would like to bring Senators' attention to the fact that no provision in the bill authorizes the appropriation of new budget authority to cover these costs. The committee intends that the costs of implementing the legislation will be

absorbed by the Department within its normal budget. S. 708 is not intended to "drive up" the Department's budget requests.

In conclusion, Mr. President, I would only say that this is a fair bill and a carefully crafted bill.

Senator PROXMIRE, Senator CHAFEE, Senator D'AMATO and I have certain amendments we intend to offer to this bill that we have discussed at some length. I think that by the time this bill leaves the floor today, we will have reached a very, very difficult goal, indeed.

Let me say, Mr. President, it would have been far easier to resolve some of the problems in this bill with calculated ambiguities but, frankly, if there is one criticism of Congress that probably is valid, it is that too often, Congress, in trying to compose differences, has left areas of ambiguity that have been counterproductive for all sides. The legislation before us today, Mr. President, instead shows that the committee chose to confront the issues directly and to draft legislation intended to provide the greatest guidance possible to businesses which have to live with this statute on a day-to-day basis. I think the result will be a clearer law and, because of that, a better law. I believe that to be the case from the viewpoint of people on all sides of this issue. It is my hope that my colleagues will see it the same way after proper discussion, adopt this legislation and send it on to the House.

Mr. PROXMIRE. Mr. President, in 1977, 4 years ago, Congress passed the Foreign Corrupt Practices Act in response to one of the worst domestic and foreign bribery slush fund scandals in American corporate history. I think all of us can recall the terrible implications of that scandal. The SEC made an investigation and found that some 400 American corporations admitted that they paid \$300 million in bribes. We had a situation in Japan, in Italy, in the Netherlands and elsewhere where bribes were very, very damaging to our foreign policy.

Mr. President, bribery is bad business. It distorts free markets. It tarnishes the image of our democracy. The bribery of foreign government officials is particularly pernicious. Governments fall that are friendly to the United States and the United States and the democratic process is subverted.

The law passed in 1977 is a good law. Complaints have been heard that the law has hurt our exports. These complaints are not documented and exports have increased since 1977.

As a matter of fact, from the time that was enacted, exports rose more dramatically than they have at any time during our history.

Nevertheless we have before us today S. 708, which amends the Foreign Corrupt Practices Act.

The Banking Committee with the help of the Securities and Exchange Commission has labored long and hard on S. 708. With an amendment on the enforcement section today which I intend to support, I believe the committee has done its job in a responsible manner. It is a tribute to the leadership of Senator CHAFEE who

is the author of this bill and who has worked very hard on it and has done his very, very best to work out a bill that would be effective but would also accommodate the legitimate interests of our exporters—of Senator HEINZ and Senator D'AMATO, who have been most effective leaders in the committee on this bill. Because of them, S. 708 has been refined to the point that it has been.

I congratulate Senator CHAFEE, Senator HEINZ and Senator D'AMATO and commend them for their response in the public interest to the many defects in the original bill.

Mr. President, I believe the Senate has gone as far as it can on this legislation. The House will receive the legislation and I am sure will take a close look at the exceptions in this legislation for payments and compliance with local law and for expenditures in connection with sales. With House action, we should get final action in this Congress. I hope we do.

This legislation will preserve intact the accounting provisions which are designed to require companies to maintain accountability for corporate assets and in connection therewith to keep accurate and fair books and records in reasonable detail. The accounting sections are the heart and soul of this legislation.

We must have those sections or we have a toothless, meaningless, ineffective law.

In this legislation that is being proposed today, with the amendment attached, existing law is not cut back, it is strengthened. This legislation makes clear that a standard of reasonableness is to apply, not a standard of materiality. The accounting sections will be enforced by the SEC.

In spite of all this, Mr. President, I have grave reservations about the sections of the bill which remove SEC jurisdiction over criminal provisions of law prohibiting bribes through an agent. The SEC has the expertise in stopping bribery. That is their job, to understand corporate accounting. That is their job, to require disclosure. It takes years of experience and a vast knowledge of corporate accounting in order to be able to accomplish this. They are exactly the agency that should be involved here.

Yet, the Justice Department is given exclusive jurisdiction in this bill. They will have to be watched closely in their enforcement. Their recent action in the McDonnell Douglas case gives me pause, as does the deletion of the know or have reason to know standard of current law.

Let me once again thank Senators HEINZ, CHAFEE, and D'AMATO for their spirit of compromise and willingness to listen to criticism during the course of consideration of this bill.

It is never easy, when we all feel so strongly on our positions, to work out a negotiated compromise, but I think that these Senators have done an outstanding job in this case—as I say, of achieving a measure which is not all I would like and I am sure is not exactly what they would like, either, but does represent an advance.

Mr. DIXON. Mr. President, S. 708, the Business Accounting and Foreign Trade

Simplification Act, is the product of a long period of hard work by the members of the Senate Committee on Banking, Housing, and Urban Affairs, on which I am proud to serve. The bill is a compromise measure; it reflects many hours of negotiations over a period of several months.

The objective and purpose of the bill is very clear and well set out in the first line of text: "A bill to amend and clarify the Foreign Corrupt Practices Act of 1977." Clarify is the key word. The bill is designed to continue effective enforcement of the policy objectives of the Foreign Corrupt Practices Act.

The FCPA deters U.S. firms from bribing foreign officials to obtain business. S. 708, if enacted, will work effectively to insure that policy is continued. No one who supported clarifying changes in the act—the administration, the Securities and Exchange Commission, the business community—wants to undercut existing law. Everyone supporting the bill wants to continue effective enforcement to insure that American firms do not engage in bribery overseas.

What the bill attempts to do—and, I believe, does reasonably well—is to continue the effective FCPA prohibition against overseas bribery while clarifying the law.

Clarification is needed for two reasons. First, to provide a greater degree of certainty as to what the law means for those who have to live under it. Second, to reduce the regulatory burden of the act to the minimum level needed to meet its objectives.

I think it is clear that the act needs to be clarified. The antibribery standard under existing law—the so-called reason to know standard—is vague and subject to wide variations of interpretation. In fact, as the committee report points out, many legal commentators believe that the reason to know standard can be interpreted to mean reason to suspect, a standard much broader than that intended by the authors of the 1977 legislation as I understand it.

Mr. President, we must remember that the FCPA is an extraterritorial application of U.S. law. Its principal focus is to prevent bribery that occurs beyond our borders. For this reason, it is particularly important that the statute be as precise as possible.

I am not going to take the time to recite the numerous examples of the real problems caused by the vague reason to know standard that were testified to in hearings before the Banking Committee. I believe the testimony before the committee makes clear, however, that the vagueness and uncertainty of the existing standard have cost American firms business opportunities overseas. It is impossible to put a reliable dollar estimate on the amount of business lost, but that does not make the problem any less real. Concern about potential liability under the act has cost the U.S. exports—exports that we need to increase as rapidly as we can, if we are to restore our economy to its former healthy state.

The bill clarifies the antibribery standard in the FCPA by replacing it with a standard that would impose liability where a corrupt warrant payment is

made and the U.S. concern directs or authorizes, expressly or by a course of conduct, that the payment is made. This standard provides the degree of certainty needed by those who have to live under the act. As the committee report indicates, it results in a standard that imposes liability in overseas bribery cases brought under this act only if liability would also be imposed if the activity occurred in the United States and were subject to domestic bribery law.

The new standard is more precise, but will still effectively meet the objectives of the 1977 law. If a firm directs or authorizes an agent to pay a bribe, if a firm gives an agent a knowing wink, liability results. If a firm intentionally takes a head in the sand attitude about whether a bribe is paid, liability results. However, as the report states, the mere fact of doing business in a country where corrupt payments are common, or the employment of an agent with personal relationships with government officials in the country where the company seeks to do business, would not establish a course of conduct that would result in liability.

The bill also clarifies the accounting standards sections of the act, reducing the regulatory burden they impose on business to the level needed to meet the objectives of the act.

Concerns have been expressed that the existing standards have proven to be overly burdensome. It should be noted that no system of internal accounting controls, no matter how extensive, can prevent all errors or inaccuracies in a company's books. Therefore, any standard has to strike a balance between the need to meet the objectives of the act, and the burden the standard places on those who have to comply with it.

Mr. President, I believe that the accounting provisions in the committee bill strike the proper balance. The committee acted to combine the separate requirements of adequate books and records and of internal accounting controls from existing law into a single provision. The internal accounting controls have to be designed to provide reasonable assurances that the objectives of the act are met.

The bill reduces the burden of the accounting requirements on business, however, to the level needed to insure that the purposes of the law are effectively continued. The bill precludes the possibility of enforcement actions based solely on the fact that records are inaccurate. Under the scienter standard adopted in the bill, a company would be subject to an enforcement proceeding only where it knowingly fails to maintain, or knowingly circumvents or attempts to circumvent for an improper purpose, an internal control system in a manner so that the system fails to provide the required reasonable assurances as defined in the bill.

I understand that Senators D'AMATO and PROXMIER will offer an amendment to further clarify the scienter standard in the bill. This issue was not clearly resolved during the committee's deliberations, and I am pleased to see a compromise proposal offered that I hope will be acceptable to all parties involved.

There are a number of other provisions of the bill that I could comment on at some length. However, I will not do so

at this time. The committee report provides a good explanation of the numerous issues on which I have not touched.

Let me just say that I believe this bill is a true compromise—in the best sense of that word. The bill does not fully satisfy the administration or the business community. If I were totally responsible for drafting the bill, I would probably have handled some issues somewhat differently. However, that is not important.

What is important, and what there is widespread agreement on, is that the bill is a needed step forward. I believe it effectively continues the policy objectives of the FCPA; I could not support it if I thought that it did not. At the same time, it provides the clarification, I repeat, the clarification, that is needed by those who have to live with the law on a day-to-day basis. It provides a clear line. A line that makes it possible for businesses to know with a reasonable degree of certainty what kind of behavior will result in liability.

Mr. President, exports are becoming more and more important to the American economy. We are importing more; therefore, we must increase our exports to pay the bills. We have to act to increase incentives for exports and to reduce disincentives for exports. The FCPA in its present form acts as an export disincentive—I believe, a significant disincentive—a disincentive that must be minimized.

At the same time, it is important for foreign policy reasons to maintain a strong prohibition against bribery overseas. I believe this policy benefits American business as well. I would rather act to prohibit bribery internationally by agreement with our foreign competitors. This issue is best resolved by international agreement. However, the issue is so important that I believe Congress made the right decision in 1977 in choosing to act unilaterally.

Mr. President, before I conclude, I want to pay tribute to those Senators who made important contributions to the bill we are considering today. I first want to congratulate Senator CHAFEE, the author of the bill. It was his hard work and dedication, and his persistence, that are largely responsible for the fact that the bill is now before the Senate.

Senators HEINZ and D'AMATO, who chair the two subcommittees of the Banking Committee with jurisdiction over this issue are also to be commended. Together with Senator CHAFEE, they successfully concluded the long and complex negotiations that resulted in the provisions of S. 708 that are before the Senate today.

Finally, I want to commend Senator PROXMIER, one of the authors of the original 1977 act. His insight provided an important contribution to the legislation.

Again, let me say that I believe the bill represents a sound compromise and that it maintains the goals of the FCPA. I urge my colleagues to support it.

UP AMENDMENT NO. 705

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) for himself, Mr. CHAFEE, Mr. PROXMIER, and Mr. HEINZ proposes an unprinted amendment numbered 705.

Mr. D'AMATO. 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 24, strike lines 13 through 25 and insert in lieu thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection.

(5) No civil injunctive relief shall be imposed with respect to—

(A) any issuer for failing to comply with the requirements of paragraph (2) of this subsection if such issuer shall show that it acted in good faith in attempting to comply with such requirements; or

(B) any person other than an issuer, in connection with an issuer's failure to comply with paragraph (2), unless such person knowingly caused the issuer to fail to devise or maintain a system of internal accounting controls that complies with paragraph (2).

(6) No person shall knowingly circumvent a system of internal accounting controls established pursuant to paragraph (2) for a purpose inconsistent with paragraph (2)."

Mr. D'AMATO. Mr. President, I offer this amendment on behalf of Senator CHAFEE, Senator HEINZ, Senator PROXMIER and myself. I am offering this amendment which is intended to resolve the issue which has been the most difficult on which to develop a consensus.

Let me state for the record, Mr. President, and I believe Senator HEINZ has made reference to this, without the outstanding support and diligence of the staffs of all of the Senators involved, the majority and the minority, this bill would not have become a reality. I believe it will become a reality today.

Let me pay particular note to the fact that Senator PROXMIER went above and beyond in attempting to develop a consensus to protect the vital interests that he feels are so important. Basically, that is that we in no way countenance or even appear to be countenancing the bribing of foreign officials.

I say to the Senator that I deeply impressed with the great lengths to which he and his staff have gone to see that the needed reforms take place. This involves the required state of mind for a defendant in order to establish a violation of the accounting requirements of the act.

As introduced, S. 708 would have established liability only where a person knowingly engaged in violative conduct. In marking up S. 708, the Banking Committee adopted the knowing standard tentatively, but there was not a clear consensus that this standard is the appropriate one. At the conclusion of the markup, we adopted this standard and agreed to explore alternative approaches for amendment when S. 708 reached the Senate floor. That is what the amendment I have submitted would do.

The amendment which I offer with Senator PROXMIER is the product of extensive discussions in seeking a consensus. While it undoubtedly will not satisfy all of those interested in the act's accounting provisions, I am satisfied that

it strikes a reasonable and acceptable balance between the competing viewpoints heard by the committee.

The amendment speaks for itself, and I do not believe that it is necessary to explain it in great detail. Briefly, it would:

Eliminate any criminal liability under the revised section 13(b)(2) of the Securities Exchange Act of 1934;

Establish civil liability in SEC injunctive actions on the part of an issuer for a violation of section 13(b)(2) if the issuer fails to meet the standard set forth therein, unless the issuer can show that it acted in good faith in attempting to comply with the standard;

Limit liability on the part of any person other than the issuer to situations in which the person acted knowingly in causing the issuer to fail to comply; and

Prohibit the knowing circumvention, for a purpose inconsistent with section 13(b)(2), of an internal accounting control system established pursuant to section 13(b)(2).

The reference to a "purpose not consistent with" section 13(b)(2) is intended to recognize that there may be from time to time innocent departures from the literal requirements of an internal accounting control system, and that such departures would not constitute violations of the prohibition against circumvention.

I believe the amendment will give the business community the kind of latitude it necessarily should have. It speaks loudly and clearly and says that this Government does not and will not condone the bribery of officials. I urge adoption of the amendment.

Mr. President, I urge my colleagues to support S. 708, the Business Accounting and Foreign Trade Simplification Act. The bill has received the careful and thorough attention of the Subcommittee on Securities, which I chair, and the Subcommittee on International Finance and Monetary Policy chaired by Senator HEINZ, and I believe it represents a balanced approach in amending the Foreign Corrupt Practices Act.

Our subcommittees heard extensive evidence concerning often unforseen problems created by the act, primarily as a result of overbroad and ambiguous provisions. We have concluded that the act can be amended to minimize these problems, without undermining the central purpose of the act: To prohibit improper payments by American companies to foreign officials. With the addition of the amendment to the accounting provisions of the act which I am offering today, I am convinced that the bill will strike a good balance between the need for corporate accountability and the legitimate need of businessmen for clarification of the requirements of the law.

I commend Senator JOHN CHAFEE, the sponsor of S. 708, for his initiative and determination in introducing the bill and in continuing to be its strongest advocate. This has not been an easy task, for some of the critics of S. 708 have argued incorrectly that the amendments were designed to gut the Foreign Corrupt Practices Act. Having attended the hearings and observed Senator CHAFEE's ap-

proach to the issues presented, I know that he has rendered a great service by making the effort, and by withstanding the criticism of those who would leave the act intact, and thereby fail to address the problems which it has caused.

It is completely appropriate for Congress to reassess the merits of legislation passed in earlier years and to make adjustments based upon experience with the statute. I am pleased to have had the opportunity to work with Senator CHAFEE, Senator HEINZ, and many others who have contributed to this task. I believe that these joint efforts have led to the development of a bill which, when enacted, will be a vast improvement over the current act.

Mr. President, I strongly support S. 708 and urge my colleagues to do the same.

Mr. HEINZ. Mr. President, I have very carefully examined the amendment of the Senator from New York (Mr. D'AMATO). Indeed, after having done so, I have agreed to cosponsor his amendment, and I am prepared, on behalf of the majority, to accept the amendment. With its adoption, I believe that we will have resolved the most difficult issues raised by S. 708 in a satisfactory manner. While I realize that there may be additional amendments, I expect that with the adoption of this amendment the bill before us can be completed without undue delay.

The amendment offered by Senator D'AMATO draws an acceptable balance with respect to the state of mind requirement for liability under the accounting provisions of the Foreign Corrupt Practices Act. Conflicting views about this issue had created an impasse which threatened to delay Senate action on the bill, and I am very pleased that an accommodation has been reached. Both Senator D'AMATO and Senator PROXMIRE are to be commended for their diligence in working out a compromise which will permit prompt Senate action on the bill.

The principal problem with the existing accounting provisions of the act has been the lack of clarity concerning their potential effect on insubstantial corporate transactions and those which occur without any wrongful intent or purpose on the part of the company. It is widely recognized that no corporate accounting system is perfect or will preclude the possibility of all errors, inaccuracies, or falsifications, and it is therefore not appropriate to operate under a statute which can be stretched to cover these kinds of transactions. The result of doing so has been to cause companies to expand inordinate time and money in seeking to insure compliance with the law, without a corresponding benefit.

I hope and expect that, as a result of Senator CHAFEE's efforts, those of the Banking Committee and the adoption of the D'Amato amendment, the accounting provisions of the law will be clear, unambiguous, and straightforward.

Mr. PROXMIRE. Mr. President, I am pleased to cosponsor this amendment.

This amendment provides enforcement standards for the accounting sections administered by the SEC.

The amendment makes clear that the SEC may enforce in a civil injunctive suit the standard of statute which re-

quire companies to devise and maintain accountability for assets. Every company must provide an accounting system which meets the standard of reasonable assurances with a defense of good faith.

The amendment makes clear that the sanction shall be a civil sanction except for cases of willful circumvention of accounting controls where a criminal sanction may be applicable.

This amendment clears up what had become the most controversial aspects of this bill, the controversy over "scienter" or the threshold standard of knowledge of a violation of the accounting sections which must be met before the SEC could proceed in a civil case. Under this amendment there is no scienter requirement in a civil case by the SEC against an issuer company. The issuer company is given a defense of good faith.

So I am pleased to support the amendment. I agree wholeheartedly with the manager of the bill that this was the most crucial difference and difficulty. I am delighted that Senator D'AMATO has offered the amendment, and I congratulate him on it.

Mr. DODD. Mr. President, I support the amendment offered by the Senator from New York (Mr. D'AMATO).

I should like at this time to pay tribute not only to Senator CHAFEE, Senator HEINZ, and Senator D'AMATO for their work on this legislation but also to the real hero of the Foreign Corrupt Practices Act, the distinguished Senator from Wisconsin, who understands this issue better than anyone in this body or the other body. He has worked with it for years and understands the complexity of the issues involved. He deserves tremendous credit for having waged this battle over the years.

The fact that he supports this amendment, I think, is also an indication of the willingness of the Senator from Wisconsin to try to work out language that will at least give business a better opportunity to go overseas and develop their markets.

At the same time, he remains firm in his commitment and in the commitment of this institution to discourage, at the very least, and to prohibit the kind of actions in the past which not only have brought great embarrassment to the heads of firms in American industry but also have caused us serious foreign policy problems as a Nation. Had it not been for his leadership over the years, I am convinced that the situation would have been far more grave and would have contributed to more difficulties in our foreign policy.

These amendments will provide much-needed clarification to an act of Congress which, despite its good intentions, has posed significant and unwarranted difficulties for American firms engaged in foreign markets.

There is always room for improvement in our trade position, and I am not going to attribute our less-than-perfect trade performance solely to the ambiguities in the Foreign Corrupt Practices Act, or to any other particular statute for that matter.

The issues relating to our trade policy and position are much more complicated than that. The inflation rate, the

strength of the dollar overseas, the availability of financing, the quality and serviceability of our goods and their usefulness in foreign countries—all these factors are critical to our export performance and have little to do with the problems these amendments are intended to address.

Testimony presented before the Banking Committee this year clearly indicates that many American entrepreneurs have had serious reservations about operating in markets where standard business practices include activities which, under present law, could subject these entrepreneurs to costly litigation, fines and possible jail sentences.

The antibribery provisions in section 104 of the Foreign Corrupt Practices Act pose perhaps a particularly enlightening example of unnecessarily vague language which acts as a serious disincentive for exports by American business. Under that section, an American corporation is liable under the statute for payments, even insignificant payments when compared to the assets of the company, when that company's management has reason to know that illegal payments are being made by its overseas agents. What constitutes "reason to know?" That was the question with which the committee had to grapple. The fact that a company has employed an overseas agent with a detailed knowledge of markets where payments prohibited by U.S. law are routine for everyone else involved in those markets.

Our smaller exporters are put in a particularly difficult position. Unlike larger corporations, many smaller enterprises are unable to hire large batteries of lawyers and accountants to insulate management from the continual threat of prosecution for practices considered normal in their markets.

I believe that most of us recognize that smaller businesses are among the most dynamic elements of our economy in terms of producing exportable innovations. The willingness of individual entrepreneurs to experiment, to take risks, to explore new avenues and opportunities for commerce, is a prominent feature of our American entrepreneurial history. Yet, as one witness, Mr. Shaw Mudge from my home State of Connecticut, pointed out, "small business people are risk takers, but not when jail is one of the risks."

These amendments would address this problem in a manner that would enhance the precision of the antibribery provisions.

The new section 104(B) would make it illegal for a domestic concern to direct or authorize, expressly or by a course of conduct a third party to make prohibited payments to a foreign official. While clearing up the ambiguities in the present statute, this provision would also make clear that a "head in the sand" approach to illegal payments, such as a company's failure to respond to suggestions that illegal payments be made, would not be permitted.

Other provisions in these amendments would address in a positive manner the problem of potential liability for inadvertent accounting standards violations,

the definition of facilitating, or grease payments which were not intended to be covered under present law, and a number of other matters pertaining to investigation and enforcement.

This bill would also direct the President to pursue negotiation of international agreements relating to the establishment of international standards of business conduct. That may be the single most important thing we do. Because we have taken the lead as a nation in this particular area, it is to our credit and something of which all of us can be proud. But in the final analysis it is going to require international agreements to insure that other nations, particularly our industrial allies, support the concept if not the letter of the Foreign Corrupt Practices Act.

The United States in 1977, under the leadership of the Senator from Wisconsin, took the lead in restricting such practices at a cost to ourselves.

Now is the time for all major commercial nations to come to an agreement regarding such practices so that no one nation is left at a disadvantage.

Mr. President, I state again my support for these amendments. Again I pay particular tribute to the Senator from Rhode Island (Mr. CHAFEE), the manager of the bill, Senator HEINZ, and Senator D'AMATO of New York, and again, particular credit to the distinguished Senator from Wisconsin for his courageous work in this particular area.

Mr. President, I yield back the floor.

Mr. CHAFEE. Mr. President, I wish to extend my thanks to all who have been of such a tremendous help on this legislation. Specifically, I want to thank Senator HEINZ and Senator D'AMATO who chair the two banking subcommittees which combined for hearings on S. 708, and Senators DOB and DIXON who worked so fully and helpfully in the committee. Each of these Senators made a really profound contribution.

I especially extend my thanks and admiration to Senator PROXMIRE and to his staff who worked so carefully with us.

I want to point out that Senator PROXMIRE is the author of the original legislation, and as author Senator PROXMIRE understandably has indicated that he feels strongly that he still believes the original legislation is effective and should not be changed. Despite this, Senator PROXMIRE has displayed a spirit of cooperation and a genuine desire to achieve a reasonable compromise. As a result we were able to take the bill that I originally submitted and working with the other committee members I have mentioned and with their staffs came out with a better bill than was originally submitted.

So it shows the effectiveness, not only of the committee process and the hearing process, but also the extreme goodwill in which everyone approached this and especially Senator PROXMIRE.

Mr. President, I began my efforts to reform the Foreign Corrupt Practices Act nearly 2 years ago. It was in January 1980. It was somewhat of a lonely experience and I had a good deal of the business community indicated that it was behind me, but I discovered that

they were way behind me and not available on the scene. There was all sorts of goodwill, all sorts of willingness to testify except every date that we chose for testimony appeared to conflict in some way with an important engagement abroad or a board of directors meeting or something that kept the leaders of industry from coming forward because trying to change a foreign corrupt practices act is not exactly waving the American flag.

It is not apple pie and motherhood. But I felt, as did the cosponsors and all of those of us who worked on it and those who are cosponsoring the various amendments today, that this bill was needed to eliminate the chilling effect of the current law on legitimate business opportunities of Americans overseas. We also felt that we owed a duty to our exporters to do everything we can, as Senator HEINZ mentioned in his opening statement, to remove the most serious of the export disincentives contained in our laws.

So as Senator HEINZ mentioned, this year we have already taken two very significant steps, both the Export Trading Companies Act which is before the House and, of course, removing the provision for the taxation of Americans abroad which was part of the tax bill passed earlier this year. Now we move to eliminate the third most serious export disincentive. It is hard to believe how much exports mean to our country and to jobs. That is the heart part of my concern. We have a rule of thumb that says that for every \$1 billion of exports it means 40,000 jobs in the United States. So everything we can do to increase our exports helps us in this area. The United States has had a decline in exports.

I am not talking about the overall balance of trade which includes defense-related expenditures and services, but I am talking about the current account. Our current account has declined especially in the last couple of months.

Mr. President, the bill that we are considering this afternoon, S. 708, my bill to amend the Foreign Corrupt Practices Act, is the result of an effort I began over 2 years ago to eliminate one of the most serious export disincentives contained in our laws. The bill makes several major changes which significantly eliminate the ambiguities in the current law.

S. 708, which was reported favorably by a bipartisan majority of the Senate Banking Committee, clarifies and modifies the law. This bill is intended to preserve the purposes of the original legislation—that is, putting an end to large-scale bribery of foreign officials by American corporations—while reducing some of the anxieties and confusion that the law has generated. The bill has received strong support from the business community, the agencies responsible for its enforcement, the administration, and other Members of Congress from both political parties.

We have learned a great deal about the Foreign Corrupt Practices Act in the last 3 years, since it was enacted.

We have learned that the best of intentions can go awry and create con-

fusion and great cost to our economy. With regard to the accounting provisions of the law, we have learned that widely understood and accepted principles do not always make for good law, especially criminal law.

Finally, we have learned that no other country seems to think we have hit upon the proper solution to the problems of bribery in the world marketplace. We remain the only nation in the world with such a law.

Despite the examples of lost business and problems due to the ambiguities in the act, critics of reform have argued there is no need to change the current law because, despite the problems, our exports have increased. While it is true that U.S. overall export performance has been relatively good for the last couple of years, the current trade account is in deficit again. The fact that the current account balanced in 1979 can be explained by a number of factors other than improved exports, such as the substantial depreciation of the dollar from 1972 to 1979.

In fact, there are a number of factors which indicate that the outlook for the current account is not good. First, the favorable balance in the current account in 1979 was due in part to an unusually large \$18 billion current account surplus recorded in 1975. Second, since 1972, the rate of the U.S. export growth has trailed that of Germany and Japan. Third, since 1972, the U.S. share of world markets has declined from 15.6 to 14 percent, while the share of manufactured exports has fallen from 18.4 to 17.4 percent.

The importance of the decline in our world exports is a serious problem, since exports account for an increasingly important share of the U.S. gross national product. In concrete terms, the Department of Commerce has estimated that every billion dollars in exports generates 30,000 to 40,000 domestic jobs. The legislation which I have introduced makes use of the lessons we have learned in an effort to insure continued growth of U.S. exports. My bill makes a number of significant changes to the Foreign Corrupt Practices Act.

First, the name of the act is changed: The Foreign Corrupt Practices Act would become the Business Practices and Records Act. This reflects the fact that the accounting standards are not limited to international companies or transactions. It also would not make a presumption that corruption exists.

Second, enforcement: With regard to the bribery provisions, the Department of Justice, which has sole jurisdiction under the FCPA for criminal enforcement of both privately and publicly held companies and civil enforcement of privately held companies, would be given sole jurisdiction of civil enforcement for publicly held companies as well. Thus, any company with questions about the bribery provisions could get them answered in one place. The Securities and Exchange Commission would retain responsibility for civil enforcement of the accounting standards provisions. The Securities and Exchange Commission has no objection to this change.

Third, bribery provision: Congress made clear its intent to exclude so-called facilitating or grease payments from the reach of the Foreign Corrupt Practices Act. However, the statute is not clear as to what constitutes such payments. Grease payments are defined as payments to secure or expedite the performance of a routine governmental action as distinguished from action involving the exercise of discretion. I intend to offer an amendment to further clarify this language by deleting the reference to the exercise of judgment. Payments which are lawful in the country where they are made, and which are intended to secure prompt performance of a foreign official's duties, would not be actionable under this bill. There is also a clarifying exclusion for token courtesy gifts and incidental benefits received by foreign officials in the course of marketing activities or product presentations.

My bill also makes it clear that there is no violation in making payments if they are legal under the laws and regulations of the foreign country involved.

Under the Foreign Corrupt Practices Act, companies are liable if they have a reason to know that a bribe may be paid by a third party or intermediary. This provision was identified in the 1980 executive branch study of export disincentives as the area of greatest concern to business. My bill replaces this provision with language that makes U.S. companies liable if they corruptly pay a bribe directly or if they directed or authorized the bribe expressly or by a course of conduct.

Fourth, accounting standards: The books and records provision was deleted as a result of Senator D'AMATO's amendment offered during the Banking Committee markup. The bill also defines the terms "reasonable assurances" and "reasonable detail," which exist in the current law. Thus, it is made explicit that the use of cost/benefit evaluation is to be applied to internal accounting controls. This makes it clear that companies are not expected to design control systems whose costs exceed the benefit to the companies and to their stockholders. Currently, the Securities and Exchange Commission says the cost/benefit evaluation is to be applied. But the law does not say so. We would put it into the law.

Fifth, international agreement: This bill contains extensive provisions on the desirability of international agreements to establish standards for international business practices. The President would be required to submit a report to Congress within 6 months of enactment of this legislation explaining steps that the United States could take to promote cooperation by other countries to prevent bribery.

I have not given up on the possibility of gaining an agreement to eliminate bribery from the world marketplace. I hope that my legislation will convince other nations that we are realistic in our approach to the problem and determined to resolve it on an international basis.

The need for reform of the Foreign Corrupt Practices Act is clear. There is a wealth of evidence that, in practice,

the current law has gone beyond its original purpose of prohibiting foreign bribery by creating confusion which is hindering the growth of legitimate U.S. business overseas.

The problems caused by the current law also have serious foreign policy implications. Foreign governments in parts of the world find the act presumptuous and offensive. Critics of the current law have cited this as a reason for its repeal. I do not advocate repeal, for U.S. companies should operate according to an ethical code of conduct, both at home and abroad. However, that goal must be balanced with the need to maintain a healthy balance of trade and good diplomatic relations. Arriving at that balance will not be an easy journey, but enactment of my bill will be a significant step toward achieving that balance.

In conclusion, I want to express my thanks to Senators HEINZ and D'AMATO for chairing the Banking Subcommittee hearings on the bill and for all their support in reaching this point. I also want to thank Senators PROXMIRE, DIXON, DODD, and RIEGLE for their cooperation and efforts to achieve a compromise.

Mr. President. In conclusion, let me say that with the passage of S. 708 we will have taken a magnificent step forward. As I say, the amendments that are going to be proposed today improve the original bill that was introduced, and I tip my hat to all who had a part in this effort.

I commend the passage of the current amendment which is presented by Senator D'AMATO, on behalf of himself, Senator PROXMIRE, Senator HEINZ, and myself.

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

The amendment (UP No. 705) was agreed to.

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

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 706

Mr. HEINZ. Mr. President, I have two technical amendments that I send to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. Is it the Senator's request that they be considered en bloc?

Mr. HEINZ. The Senator from Pennsylvania would request that the two changes contained in the amendment be considered en bloc.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 706.

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

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

The amendment is as follows:

On page 21, line 24, strike "corrupt" and insert in lieu thereof, "corporate".

On page 22, line 16, strike "policy".

Mr. HEINZ. Mr. President, this technical amendment which, I believe, the minority has seen as well, simply corrects two typographical errors in the bill. I move its adoption.

The amendment (UP No. 706) was agreed to.

UP AMENDMENT NO. 707

(Purpose: To delete section 9)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 707.

Mr. HEINZ. 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 with page 35, line 22, strike out all through page 36, line 8.

On page 36, line 10, strike out "Sec. 10." and insert in lieu thereof "Sec. 9."

Mr. HEINZ. Mr. President, this section of the bill, section 9, makes a conforming change in the Internal Revenue Code to make clear that business expenses which are legal under the Foreign Corrupt Practices Act would also be deductible in accordance with normal IRS rules.

While the committee supported this provision as sound policy and as an effort to make sure that our tax laws conform to our other statutes, its presence in this bill does raise a jurisdictional question with the Finance Committee, among others. I understand that Senator CHAFEE has also introduced this provision as a separate bill and that the Finance Committee has already conducted a hearing on it.

I am optimistic that the Finance Committee will act on that bill in due course, which, in my judgment is the proper way to proceed from the standpoint of committee jurisdiction. Accordingly, I am offering an amendment to delete this section of the bill, with the clear understanding that the deletion is for jurisdictional reasons and without prejudice to the substance of the provision.

The amendment (UP No. 707) was agreed to.

UP AMENDMENT NO. 708

(Purpose: To provide for a report to Congress on the status of international negotiations to reach an agreement on foreign business practices)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 708.

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

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

The amendment is as follows:

On page 36, line 10, strike all through page 37, line 14, and insert in lieu the following:

Sec. 10. (a) It is the sense of the Congress that the President should pursue the negotiation of an international agreement among the largest possible number of nations on illicit payments, including, a process by which problems and conflicts associated with such practices could be resolved.

(b) Within one year after the date of enactment of this Act, the President shall report to Congress on—

(1) the progress of the negotiations referred to in subsection (a);

(2) those steps which the administration and Congress should consider taking in the event that these negotiations do not successfully eliminate the competitive disadvantage of United States business; and

(3) possible actions that could be taken to promote cooperation by other nations in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

Mr. HEINZ. This amendment would revise section 10 of the bill, which concerns a Presidential report on the status of negotiations to reach an international agreement on corrupt practices, and on steps the administration and Congress might take in the event such negotiations are not successful.

As presently written in the bill, Mr. President, section 10 is cumbersome and disjointed, apparently referring to two overlapping reports due at different times. This amendment would combine the reports into one, make clear it is required rather than optional, and clarify the contents of the report to better concentrate on the basic issues surrounding such negotiations.

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

The amendment (UP No. 708) was agreed to.

UP AMENDMENT NO. 709

(Purpose: To revise language relating to an exemption in section 104(c))

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 709:

On page 27, beginning with the comma on line 7, strike out all through "factor" on line 9.

Mr. CHAFEE. Mr. President, I am offering this amendment to section 104(c) of S. 708 which appears as stated in the amendment on page 27.

I am offering it in an effort to clarify more precisely what payments will be allowed under the bill.

Section 104(c)(1) as it is printed here excepts certain facilitating or so-called "grease" payments that are lawful under current law, but it does not apply to governmental actions involving the exercise of judgment. That is the last clause where it states:

as distinguished from governmental action in which the exercise of judgment by the foreign official is a significant factor.

The purpose of the language on page 27 was intended to allow companies to make payments to secure the performance of low-level routine kinds of governmental action, such as securing the processing of a customs document.

However, even this kind of low-level, routine activity could be argued as involving some kind of an exercise of judgment. Thus uncertainty remains in the minds of U.S. business people doing business abroad, when they try to determine what kind of routine government action might later be determined to involve the exercise of judgment. The lingering uncertainty that remains with the language of the last clause of that section (c) defeats the purpose of the overall exception which, as I say, is to give greater guidance to U.S. business persons as to what is permissible under the Foreign Corrupt Practices Act. Thus in an effort to promote clarity, the amendment I have presented deletes the last clause of section 104(c)(1).

Mr. President, I urge the passage of the amendment.

Mr. PROXMIRE. Mr. President, will the Senator from Rhode Island yield for a question?

Mr. CHAFEE. I certainly will.

Mr. PROXMIRE. May I ask the Senator, by deleting the language proposed does the Senator from Rhode Island intend to increase the scope of this exception—

Mr. CHAFEE. Not at all.

Mr. PROXMIRE. Let me just finish—beyond "grease" payments, that is the payment of small sums to lower level government officials where necessary? For example, the classic example given is to obtain action to which he is entitled on the unloading of perishable commodities at the dock where obviously this has to be done under circumstances as a practical matter or the commodities will be ruined?

Mr. CHAFEE. That is exactly the intent of the amendment that I have presented. It is not intended to change the intent of the so-called facilitating payments exception which is only to allow that low-level type of activity of which the Senator gave an illustration.

Mr. PROXMIRE. Mr. President, I am not going to ask for any vote on this amendment. I frankly personally do not favor it. But in the circumstances of the Senator's explanation I believe a vote is not necessary. I hope the House will take a close look at this provision because I think it is subject to some abuse, although I recognize the sincere effort on the part of the Senator from Rhode Island to overcome what to many business people seems to be an intolerable interference with their opportunity to conduct effective business with foreign countries.

Mr. HEINZ. Mr. President, as I understand the Chafee amendment—and I have looked at it quite carefully—what it would do is to delete the phrase "as distinguished from governmental action in which the exercise of judgment by the foreign official is a significant factor."

The purpose of the amendment is to eliminate the potential ambiguity arising from the judgment phrase. I think this is a difficult issue, but I think on balance

the Chafee amendment is the best way to do it, and I do support the amendment and I urge my colleagues to do so.

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

The amendment (UP No. 709) was agreed to.

UP AMENDMENT NO. 710

(Purpose: To revise the exclusivity provision)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 710:

On page 32, line 2, strike out "shareholders" and insert in lieu thereof "any shareholders thereof acting on behalf of such domestic concern for a payment, gift, offer, or promise to a foreign official".

On page 32, beginning with the comma on line 2, strike out all through "defraud" on line 7, and insert in lieu thereof the following: "the foreign official or the domestic concern violated a duty to or defrauded the foreign government or the citizens of a foreign country".

Mr. CHAFEE. Mr. President, I am offering the amendment at the desk to section 7 of S. 708, which provides that no criminal action may be brought pursuant to sections 1341 or 1343 of title 18 against a domestic concern or any of its officers based on the theory that the foreign official receiving the payment violated his fiduciary duty to his country.

That is the existing language. The amendment would add language which would make it clear that no actions could be brought under sections 1341 or 1343 based on a theory of a violation of a fiduciary duty by a foreign official or that the foreign official defrauded its government or citizens by receiving an illegal payment from a U.S. company or its agent.

The current exclusivity provision excludes only one theory on which the Justice Department could bring a case under the wire and mail fraud statutes in a situation involving an overseas bribery by a U.S. company. With this amendment that we are now considering, the exclusivity provision will make clear that only the Foreign Corrupt Practices Act will determine the extent to which U.S. persons are liable for any illegal payments to foreign officials.

Section 7 is intended to preclude the unprecedented application of the wire and mail fraud statutes to extraterritorial situations that are not precisely defined.

Additionally, the laws of foreign countries provide protection of foreign governments and citizens from the criminal misconduct of its government officials. Therefore, the extraterritorial application of the wire and mail fraud statutes is not necessary.

Mr. PROXMIRE. Will the Senator yield for another question?

Mr. CHAFEE. I certainly will.

Mr. PROXMIRE. As I understand it, this amendment is in the nature of a

technical amendment, and as reported by the committee the provision of the law would be the exclusive vehicle for criminal enforcement of the bribery of foreign government officials. Is that correct?

Mr. CHAFEE. Could the Senator repeat the last part of the question?

Mr. PROXMIRE. As supported by the committee, the provision of this law would be the exclusive vehicle for criminal enforcement of the bribery of foreign government officials.

Mr. CHAFEE. The provision of the Foreign Corrupt Practices Act?

Mr. PROXMIRE. That is correct.

Mr. CHAFEE. Yes.

Mr. PROXMIRE. This amendment is consistent with the committee provisions, I take it?

Mr. CHAFEE. That is correct.

Mr. PROXMIRE. Again, Mr. President, this is another provision I hope the House will take a close look at. I am prepared to move forward without a record vote on the amendment.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER (Mr. COHEN). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, this amendment involves a provision of the bill which was amended in committee at the suggestion of the administration. Under section 7, prosecution of the foreign payment under the mail or wire fraud statutes would be precluded where the theory of prosecution is that the foreign official receiving the payment violated a fiduciary duty to his government or the citizens of his country. The amendment offered by the Senator from Rhode Island would broaden this preemption by precluding mail or wire fraud prosecution where the theory of prosecution is that the foreign official or the domestic concern either violated such a duty or defrauded the government or its citizens.

The principal purpose of the amendment, as I understand it, is to direct that prosecution for a foreign payment should be governed by the Foreign Corrupt Practices Act, as amended. However, there are a number of Federal statutes other than the mail or wire fraud statute which might be involved in particular cases, such as false representation to the U.S. Government about exports, failure to disclose a material fact about a payment under the securities laws, and other statutes.

Given that situation, Mr. President, I am prepared to accept the amendment of the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I move the amendment.

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

The amendment (UP No. 710) was agreed to.

Mr. CHAFEE. Mr. President, I have some comments regarding the committee report language on section 104(b) of S. 708.

I would like to direct, if I might, a question to the manager of the bill, Senator HEINZ, in this connection.

I have reviewed the Banking Committee's report on this bill. In my mind, the committee report language on page 17 discussing the meaning of the term "course of conduct" leaves two important questions unanswered. The first question is whether the example of the standard of liability under section 104(b) requires actual knowledge. The second question is whether the examples of conduct which would violate section 104(b) which are discussed in the committee report are meant to be examples of prima facie violations or merely illustrations of the kinds of actions that might constitute a violation of section 104 depending on the circumstances of the case.

The committee report on section 104(b) with respect to your amendment inserting the words "expressly or by a course of conduct" indicated, among other things, that if an American company continued to employ an agent in the face of knowledge that he had made one or more corrupt payments within the preceding 2 years, the American company could be found to have violated the act.

Now, although the word "known" is not defined, it is my understanding that it is clearly not the same as "reason to know" as set forth in the present act. In other words, the term "known" in this sentence of the report means actual knowledge, which would, for example, include a copy of papers showing the agent had been convicted for bribery, or a direct admission of guilt by the agent to the company, but not hearsay, rumor, or cocktail party conversation.

The second issue that the report language on course of conduct raises is whether the example of the continued employment of an agent known to have paid a bribe is intended to establish a per se rule under which the employment of such an agent automatically constitutes implicit authorization. I do not believe that this was the intent of the example. Certainly, the fact that a company has advised its agent to stop making payments is also an important factor which should be considered in specific cases.

Mr. HEINZ. Will the Senator yield?

Mr. CHAFEE. I certainly will. I would be anxious to hear the Senator's answer.

Mr. HEINZ. Mr. President, the Senator's interpretation is correct. Actual knowledge is required to establish an authorization through a course of conduct and the example of the continued employment of an agent known to have made corrupt payments is merely illustrative and does not establish a per se rule.

Further, let me state that clearly rumor, hearsay, or cocktail party conversation should under no circumstances be construed to mean actual knowledge.

To clarify the second point further, these are illustrations that will depend on the circumstances of the case. They do not constitute, per se, prima facie violations.

Mr. CHAFEE. The other question that I would like to ask the distinguished manager of the bill is as follows: One of my chief objectives in drafting S. 708

was to insure that the enforcement of the act took into account foreign policy considerations. One aspect of that coordination is the notification of the State Department by the Department of Justice when it has decided to file a case. This is intended to enable the State Department to anticipate potential foreign policy problems that might arise as the result of the filing of an action under the act. Is it correct that it is the committee's intent that the Department of Justice notify the State Department when it decides to bring an action under the antibribery provisions of the act?

Mr. HEINZ. If the Senator will yield, the answer to his question is "Yes," the Senator is correct, and it is my understanding that the Justice Department has no objection to this.

Mr. CHAFEE. I thank the distinguished manager of the bill very much for his consideration.

Mr. PROXMIRE. Will the Senator yield on this particular issue?

Mr. CHAFEE. Yes.

Mr. PROXMIRE. I hope we do not have an understanding here that there should be prior clearance with the State Department before they file a case. A case should stand on its merits of whether or not the law is being violated, not on the basis of whether there is some foreign policy interest on the part of the State Department or some other legitimate interest. It ought to be filed, as I say, on the merits of the case and whether the law is violated and that should be the determination.

Mr. HEINZ. If the Senator will yield, the Senator is entirely correct. We are merely talking about notification. There is absolutely no implication here that there is any preclearance by the State Department required in any way, shape, or form. I totally agree with the Senator on that point.

Mr. PROXMIRE. I thank my colleague.

Mr. CHAFEE. 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. CHAFEE. 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. CHAFEE. Mr. President, I ask for the yeas and nays on passage of S. 708.

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

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ. 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. HEINZ. 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. HEINZ. I yield to my distinguished colleague from Pennsylvania.

Mr. SPECTER. I thank the Senator for yielding. This is the first time I have had the pleasure of a colloquy with the senior Senator from Pennsylvania.

I am concerned, and have expressed this concern to the floor manager, the distinguished Senator from Pennsylvania, about subsection (c) (2) of section 104 of the bill. Subsection (c) (2) provides that subsections (a) and (b), the bribery provisions, shall not apply to "any payment, gift, offer, or promise of anything of value to a foreign official which is lawful under the law and regulations of the foreign official's country."

The concern which I have is that the prosecuting attorney may be held to have to establish that requirement, have the burden of proof whether the act is unlawful in the foreign official's country.

The first consideration I want to have this colloquy on is to have the legislative history clarified that it would not be sufficient for a defense to be raised under this subsection on grounds of custom.

Mr. HEINZ. Mr. President, let me say to the Senator that that would not be a sufficient defense. I would also say, anticipating, I think, the Senator's second question, that I know the Senator is properly concerned about making it difficult for a prosecutor to successfully prosecute a foreign corrupt payment and that, were the burden of proving whether a law or regulation of a foreign country permits a foreign corrupt payment placed on the prosecution, as opposed to being permitted to be raised as an affirmative defense, that would, in fact, constitute an unrealistic and counterproductive obligation on the prosecutorial authority and that that is explicitly not the intent of the language on page 27, lines 10 through 13, of the bill.

Mr. SPECTER. Mr. President, I thank the distinguished floor manager for that statement.

In addition to the clarification that custom shall not be a defense or establish that something is lawful under the laws of another country, as to the second point, it will not be the affirmative burden of the prosecution to establish in the prosecution's case in chief that the conduct is unlawful under the law and regulations of the foreign official's country. Rather, it shall be the affirmative obligation or the affirmative defense of the defendant to assume the burden of proving in the course of the trial, if the defense be tendered that the conduct is lawful under the laws of the foreign official's country, that the defense applies.

Mr. HEINZ. Not being a lawyer, I am hard put to disagree with anything the Senator says. I do believe he is correct, but let me put it in my words so there no misunderstanding.

The language in this bill on this point in subsection c(2), is not to be construed by any judge or jury, who is going to make a decision, to mean that the prosecution, the people enforcing the Foreign Corrupt Practices Act, would

have the burden of proof, would have to prove that this is, in fact, not lawful under the laws of some foreign country.

This language is intended to permit a defense to be raised by the party on the receiving end of the complaint, the defendant. If he can prove—that whatever was done in the foreign country, under the laws of that country, was legal—that is intended to be a defense, but it has to be raised and has to be proved by the defendant.

Mr. SPECTER. Mr. President, I think that is well stated by a nonlawyer to a lawyer who has had experience with the prosecution of cases and affirmative defenses. I think that is a cogent, clear statement.

Mr. PROXMIRE. Mr. President, will the junior Senator from Pennsylvania (Mr. SPECTER) yield?

Mr. SPECTER. I yield.

Mr. PROXMIRE. Mr. President, I congratulate the Senator for coming in on this. As far as I know, we do not have any member of the committee who has prosecutorial experience. The Senator from Pennsylvania (Mr. SPECTER) has great skill in that area.

This has been a problem for us, Mr. President. We want a law that is effective, that can be prosecuted effectively. I have been very concerned and I think that this colloquy is most helpful. The Senator has made one point in connection with it. I would like to make another.

The Senator's position is that this should be a matter where the burden of proof is on the defense. The point I would like to make is that we are referring here not just to some unwritten regulation; we are referring to something that is in the Constitution of the country, the statute law, a judicial decision, or a written regulation. In other words, it has to be specific, written, it has to be something that is established and available and the defense itself has to use it.

Mr. SPECTER. Mr. President, I think the distinguished Senator from Wisconsin has articulated and filled out the first portion of the colloquy that Senator HEINZ and I had, which was abbreviated under the concept of custom. It would not be sufficient for an affirmative defense to be raised by the defendant that it was a matter of custom which is subject to some vagary or some generalization. As the distinguished Senator from Wisconsin has articulated, the lawfulness of the payment must be shown to exist in the Constitution or statutory law or specific written regulations of the foreign official's country so there will be no doubt that, in fact, it was a lawful area of conduct under the foreign country's laws and within its government, demonstrable by a written document of one sort or another, including a judicial decision.

Mr. HEINZ. Mr. President I commend my friend and colleague from Pennsylvania for having entered into what I think is a very appropriate colloquy, clarifying something that perhaps someone could have misconstrued. I want just to echo what Senator PROXMIRE has said. I thank my colleague.

Mr. SPECTER. Mr. President, I thank the senior Senator from Pennsylvania.

● Mr. DANFORTH. Mr. President, I rise today in support of S. 708, the Business Accounting and Foreign Trade Simplification Act. This bill would amend the Foreign Corrupt Practices Act by easing the strong disincentive to exports resulting from the current FCPA, while retaining a check on foreign bribery.

These changes are much needed and long overdue. The importance of exports to our economy cannot be underestimated. The impact of export disincentives such as those in the Foreign Corrupt Practices Act cannot be ignored.

Consider a few of the reasons that exports are so very important to our economy:

Every \$1 billion in U.S. export creates 50,000 jobs and additional tax revenue.

One out of every 3 acres in our country is producing food for others to eat. Nearly one-sixth of all goods produced in the United States is sold in foreign markets.

But as we move into the 1980's, America finds itself increasingly challenged by international competition. This, at a time when 40 percent of the oil we consume comes from abroad and we are more dependent on foreign trade than ever before.

U.S. exports face growing competition overseas even in areas such as computers and aircraft where we have traditionally dominated the world market. Domestic producers of an increasing number of products are experiencing intensified competition from imports. Consider these facts:

In 1971, the U.S. trade balance went into deficit for the first time in more than three-quarters of a century. Last year that deficit reached \$26 billion.

The U.S. share of world markets has gone from 18 percent in 1950 and 1960 to barely over 15 percent in 1970. By 1979, our share had fallen to around 12 percent.

Over the past 20 years, productivity growth in the major economies in the world has been about twice that in the United States.

The Government has an obligation to encourage American exports, to remove foreign barriers to trade and to reduce disincentives to exports. Then it is up to American business to get out there and sell. Certainly we all have our work cut out for us:

Fewer than 10 percent of some 300,000 manufacturing firms in the U.S. export. Fewer than 2,000 companies account for 85 percent of our export trade. By one Department of Commerce estimate, some 20,000 American companies now selling only in the domestic market could sell overseas.

Clearly, now is the time for us to remove the remaining barriers to American exports. In this respect, the Senate's record this year is a good one: In April, we unanimously passed the Export Trading Company Act. The Economic Recovery Act of 1981 significantly reduced taxation on American businessmen abroad. Now, the passage of S. 708 represents another important step.●

CHANGES ARE NEEDED IN THE FCPA

Mr. ROTH. Mr. President, I support the Business Accounting and Foreign Trade Simplification Act (S. 708). As co-chairman of the 74-member Senate Export Caucus, I am vitally concerned that we remove unnecessary regulatory impediments to U.S. overseas sales efforts. As it now stands, the Foreign Corrupt Practices Act (FCPA), which S. 708 is designed to amend, is a potent disincentive to exporting; and, while we must not allow foreign bribery, we need not shut the regulatory door so tightly that we lock out legitimate practices in exporting, as well.

Mr. President, the Foreign Corrupt Practices Act, while laudable in ambition, has dampened or snuffed out businesses' willingness to export. Small and medium-sized firms, in particular, because of their need to rely almost exclusively on overseas sales agents, have been discouraged from breaking new export ground. It is simply not worth it now for a firm to run the risk of criminal or civil prosecution for activities undertaken by uncontrollable foreign agents.

At a time when we desperately need to expand exports, create jobs, and reduce our balance of merchandise trade deficit, the 20,000-plus smaller firms that could be exporting cannot afford the gamble. Moreover, for small, medium, and large firms alike, the costs of complying with the accounting and record-keeping standards are, indeed, daunting. The FCPA has forced our firms to operate in an atmosphere where they are presumed guilty unless meticulously kept and exhaustive records prove them innocent.

Mr. President, the legislation before us is designed to loosen the export-discouraging grip of the FCPA without compromising its prime intent, that is, the prohibition against bribery.

By clarifying a company's liability for the actions of overseas sales agents and the definition of allowable facilitating payments, S. 708 reduces the confusion of the FCPA. By eliminating the requirement that separate books and records be kept while improving internal accounting controls, S. 708 reduces the cost of complying with Government's regulations.

These changes should free up talent and capital for exporting and will help us achieve our goal of expanding sales of U.S. goods and services.

I call upon my colleagues in the Senate Export Caucus and, indeed throughout the Senate, to support the intent of S. 708 and approve this much needed legislation.

Mr. HEINZ. Mr. President, I think we are ready to move to third reading.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading.

The bill clerk proceeded to read the bill the third time.

Mr. ROBERT C. BYRD. Mr. President, I have an amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

UP AMENDMENT NO. 711

(Purpose: To provide for small business representation on the Federal Reserve Board)

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

The PRESIDING OFFICER. 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 711.

At the end of the bill, add the following:

SMALL BUSINESS REPRESENTATION ON THE FEDERAL RESERVE BOARD

SEC. 11. The President shall nominate an individual whose background is nonbanking, but who is representative of small business, to fill the first vacancy occurring on the Board of Governors of the Federal Reserve System after the date of enactment of this Act.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Have we advanced to third reading already?

The PRESIDING OFFICER. We have not. The clerk was only part way through third reading.

Mr. HEINZ. I thank the Chair.

The PRESIDING OFFICER. The Senate will suspend for consultation with the Parliamentarian.

Mr. HEINZ. 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. MATHIAS. 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. MATHIAS. Mr. President, it is very much easier to recognize that a mistake has been made in itself to correct it. In this instance, I think we are all indebted to the Senator from Rhode Island (Mr. CHAFFEE) for not only recognizing that we made an error in 1977, when we passed the Foreign Corrupt Practices Act, but also for giving us some guidance as to the best means of amending that error.

I have been happy to join him in co-sponsoring S. 708, which does amend and clarify the Foreign Corrupt Practices Act and certainly in no sense abandons the high moral ground we adopted in 1977, in discouraging practices which tend to subvert normal commercial transactions. I believe it does place the whole purpose of the Foreign Corrupt Practices Act on a more realistic and rational basis.

Therefore, I am grateful to the Senator from Rhode Island for having taken the leadership in this matter. It was clear

that what we attempted to do in 1977 was not working, that the effect of it was to place American business at a serious disadvantage, and that it was not really accomplishing the purposes for which it was intended.

I believe that the bill now before us will be a more realistic and, in the long run, a more effective measure. Therefore, I support it with a great deal of enthusiasm.

The ink was not dry on the original bill before I think many of us had misgivings that we had gone in the wrong direction. I believe that today we have an opportunity to change our course and to go in the right direction, and the Senator from Rhode Island deserves the lion's share of the credit for making this change.

Mr. CHAFEE. Mr. President, I thank the distinguished senior Senator from Maryland for his very kind comments. I appreciate what he has said. I think it is important to note that this was an effort that involved others. I am delighted to have the credit, but I do want to share that credit with those previously mentioned—the senior Senator from Wisconsin, the senior Senator from Pennsylvania, Senator DODD, Senator DIXON, Senator D'AMATO, and others.

Everybody pitched in. I hope we can get this piece of legislation passed quickly.

Again, I thank the senior Senator from Maryland for his kind comments.

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

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

TIME AGREEMENT—S. 881, SMALL BUSINESS RESEARCH INNOVATION ACT OF 1981

Mr. BAKER. Mr. President, the minority leader and I have consulted with the managers of the bill on both sides with respect to a time agreement on another matter which I believe might resolve the issue of the amendment now at the desk and to be offered by the distinguished Senator from West Virginia. I will put this request at this time, and then we can address the other question.

Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of Calendar No. 283, S. 881, it be considered under the following time agreement:

Two hours on the bill, to be equally divided between the chairman of the Small Business Committee and the ranking minority member, or their designees; One hour on amendments in the first degree;

Thirty minutes on amendments in the second degree;

Twenty minutes on any debatable motions, appeals, or points of order, if they are submitted to the Senate;

That the agreement be in the usual form, with the following exceptions:

That an amendment to be offered by the Senator from Texas (Mr. BENTSEN), which will be the text of Senate Resolution 238, be limited to 1 hour, equally divided;

That an amendment to be offered by the Senator from Florida (Mr. CHILES), dealing with interest rates, be limited to 1 hour, equally divided;

That an amendment to be offered by the distinguished Senator from West Virginia, the minority leader (Mr. ROBERT C. BYRD), dealing with budget cuts, be limited to 1 hour, equally divided;

That an amendment to be offered by the distinguished Senator from West Virginia, the minority leader (Mr. ROBERT C. BYRD), dealing with all business representatives on the Federal Reserve Board, be limited to 1 hour, equally divided;

That any substitute amendments or amendments in the first or second degree to the nongermane amendments identified above be limited to 30 minutes, equally divided, and be germane to the amendments they seek to substitute or amend.

Further, that the Senate proceed to the consideration of S. 881 after the disposition of the Department of Justice appropriation bill, which is scheduled, by previous order, to begin on November 30.

Further, that this agreement be subject to vitiation upon the disagreement of the distinguished Senator from Louisiana, the distinguished chairman of the Small Business Committee, and the distinguished chairman of the Judiciary Committee.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the distinguished majority leader clarify as to what he meant when he said that this agreement would be subject to vitiation? He does not mean the time agreement, does he?

Mr. BAKER. I am sorry. I did not speak with much particularity. What I meant, and do now request, is that the date for the consideration of the matter be subject to vitiation, not the time limitations and other arrangements made herein.

Mr. ROBERT C. BYRD. Mr. President, further reserving the right to object, is it clear, I ask the majority leader, that there will not be a Davis-Bacon amendment?

Mr. BAKER. Yes; that is clear.

Mr. ROBERT C. BYRD. That is part of the agreement; is it not?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The text of the agreement follows:

Ordered, That on Monday, November 30, 1981, following the disposition of H.R. 4995, the time of proceeding subject to vitiation by Senators Johnston, Weicker or Thurmond, the Senate proceed to the consideration of S. 881 (Order No. 283), a bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet

agency needs and to contribute to the growth and strength of the Nation's economy, with 1 hour on any amendment in the first degree (except a Bentsen amendment, containing the text of S. Res. 238, on which there shall be 1 hour; a Chiles amendment, dealing with interest rates, on which there shall be 1 hour; a Robert C. Byrd amendment, dealing with budget cuts, on which there shall be 1 hour; a Robert C. Byrd amendment, dealing with a small business representative on the Federal Reserve Board, on which there shall be 1 hour; and with any substitute amendments, or amendments in the first or second degree to the above identified amendments to be limited to 30 minutes each and to be germane to the amendments they seek to amend), to be equally divided and controlled by the mover of such and the manager of the bill; with 30 minutes on any amendment in the second degree, to be equally divided and controlled by the mover of such and the manager of the bill; and with 20 minutes on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate, to be equally divided and controlled by the mover of such and the manager of the bill; *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee; *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Connecticut (Mr. Weicker) and the Senator from Georgia (Mr. Nunn), or their designees; *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

BUSINESS ACCOUNTING AND FOREIGN TRADE SIMPLIFICATION ACT

The Senate continued with the consideration of S. 708.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the amendment which I sent to the desk.

The PRESIDING OFFICER. The amendment is withdrawn.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 708

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 "Business Accounting and Foreign Trade Simplification Act".

FINDINGS AND CONCLUSIONS

Sec. 2. (a) The Congress finds that—

(1) the enactment of the Foreign Corrupt Practices Act of 1977 was a positive and significant step toward the important objective of prohibiting bribery of foreign government officials by United States companies in order to obtain, retain, or direct business;

(2) the Foreign Corrupt Practices Act of 1977 has caused unnecessary concern among existing and potential exporters as to the scope of legitimate overseas business activities;

(3) the accounting standards requirements of the Foreign Corrupt Practices Act of

1977, which apply to all issuers of securities irrespective of whether they have foreign operations, are unclear and excessive and have caused costly and unnecessary paperwork burdens;

(4) United States agencies responsible for enforcement of the Foreign Corrupt Practices Act of 1977 have not sufficiently coordinated interpretation and enforcement practices with other agencies responsible for international trade policy, export promotion, foreign policy, international monetary policy, and other related civil and criminal statutes; and

(5) It is in the best interests of all countries to maintain responsible standards of corporate conduct in foreign markets to preserve free and equitable trading practices.

(b) The Congress concludes that—

(1) the principal objectives of the Foreign Corrupt Practices Act of 1977 are desirable, beneficial, and important to our Nation as well as to our relationships with our trading partners, and these objectives should remain the central intent of the Act;

(2) exporters should not be subject to unclear, conflicting, and potentially damaging demands by diverse United States agencies responsible for enforcement of the Foreign Corrupt Practices Act of 1977;

(3) general compliance and enforcement practices associated with the Foreign Corrupt Practices Act of 1977 should be developed in accordance with considerations underlying foreign relations, international trade, export promotion, international monetary policy, and other related civil and criminal statutes; and

(4) a solution to the problem of corrupt payments by firms to obtain or retain business demands an international approach; accordingly, appropriate international agreements should be initiated and sought by the United States agencies responsible for trade agreements and by the President.

AMENDMENT OF SHORT TITLE

SEC. 3. Section 101 of the Foreign Corrupt Practices Act of 1977 is amended to read as follows:

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Business Practices and Records Act.'"

ACCOUNTING STANDARDS

SEC. 4. (a) Section 13(b)(2) of the Securities Exchange Act of 1934 is amended to read as follows:

"(2) Every issuer which has a class of securities registered pursuant to section 12 of this title and every issuer which is required to file reports pursuant to section 15(d) of this title shall devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that—

"(A) transactions are executed in accordance with management's general or specific authorization;

"(B) transactions are recorded as necessary (1) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (2) to maintain accountability for assets;

"(C) access to assets is permitted only in accordance with management's general or specific authorization;

"(D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and

"(E) for the purposes of subparagraphs (A) through (D) of this paragraph, the issuer makes and keeps books, accounting records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer."

(b) Section 13(b) of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection.

"(5) No civil injunctive relief shall be imposed with respect to—

"(A) any issuer for failing to comply with the requirements of paragraph (2) of this subsection if such issuer shall show that it acted in good faith in attempting to comply with such requirements; or

"(B) any person other than an issuer, in connection with an issuer's failure to comply with paragraph (2), unless such person knowingly caused the issuer to fail to devise or maintain a system of internal accounting controls that complies with paragraph (2).

"(6) No person shall knowingly circumvent a system of internal accounting controls established pursuant to paragraph (2) for a purpose inconsistent with paragraph (2).

"(5) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, including the relative degree of its ownership over the domestic or foreign firm and under the laws and practices governing the business operations of the country in which such firm is located, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such an issuer shall be conclusively presumed to have complied with the provisions of paragraph (2) by demonstrating good faith efforts to use such influence."

REPEALER; NEW BRIBERY PROVISION

SEC. 5. (a) (1) Section 30A of the Securities Exchange Act of 1934 is repealed.

(2) Section 32 of such Act is amended—

(A) by striking out "(other than section 30A)" in subsection (a); and

(B) by striking out subsection (c).

(b) Section 104 of the Business Practices and Records Act is amended to read as follows:

"FOREIGN PAYMENTS

"SEC. 104. (a) It shall be unlawful for any domestic concern, or any officer, director, employee, or shareholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of a payment, gift, offer, or promise, directly or indirectly, of anything of value to any foreign official for the purpose of—

"(1) influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of his legal duty as a foreign official; or

"(2) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality;

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person.

"(b) It shall be unlawful for any domestic concern, or any officer, director or employee, or shareholder thereof acting on behalf of such domestic concern to make use of the mails or any means or instrumentality of interstate commerce corruptly to direct or authorize, expressly or by a course of conduct, a third party in furtherance of a pay-

ment, gift, offer, or promise of anything of value to a foreign official for any of the purposes set forth in subsection (a).

"(c) Subsections (a) and (b) shall not apply to—

"(1) any facilitating or expediting payment to a foreign official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official;

"(2) any payment, gift, offer, or promise of anything of value to a foreign official which is lawful under the law and regulations of the foreign official's country;

"(3) any payment, gift, offer, or promise of anything of value which constitutes a courtesy, a token of regard or esteem, or in return for hospitality;

"(4) any expenditures, including travel and lodging expenses, associated with the selling or purchasing of goods or services or with the demonstration or explanation of products; or

"(5) any ordinary expenditures, including travel and lodging expenses, associated with the performance of a contract with a foreign government or agency thereof.

"(d) (1) (A) Except as provided in subparagraph (B), any domestic concern which violates subsection (a) or (b) shall, upon conviction, be fined not more than \$1,000,000.

"(B) Any individual who is a domestic concern and who willfully violates subsection (a) or (b) shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(2) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) or (b) shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(3) Whenever a domestic concern is found to have violated subsection (a) or (b) of this section, any employee of such domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than \$10,000, or imprisoned not more than five years, or both.

"(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, employee, or stockholder of a domestic concern, such fine shall not be paid, directly or indirectly, by such domestic concern.

"(e) (1) When it appears to the Attorney General that any domestic concern, or officer, director, employee, or stockholder thereof, is engaged, or is about to engage, in any act or practice constituting a violation of subsection (a) or (b) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent or temporary injunction or a temporary restraining order shall be granted without bond.

"(2) For the purpose of all civil investigations which, in the opinion of the Attorney General, are necessary and proper for the enforcement of this Act, the Attorney General or any attorney or attorneys of the Department of Justice designated by him are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States, or any territory, possession, or com-

monwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or attorney designated by the Attorney General, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. The Attorney General shall have the power to make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(f) As used in this section—

"(1) The term 'domestic concern' means (A) any individual who is a citizen, national, or resident of the United States; or (B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States, which has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or which is required to file reports under section 15(d) of the Securities Exchange Act of 1934.

"(2) The term 'foreign official' means (A) any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality; or (B) any foreign political party or official thereof or any candidate for foreign political office."

DEFINITIONS

SEC. 6. Section 13(b) of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following:

"(6) For the purpose of this section, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent individuals in the conduct of their own affairs, having in mind a comparison between benefits to be obtained and costs to be incurred in obtaining such benefits."

EXCLUSIVITY PROVISION FOR OVERSEAS BRIBERY

SEC. 7. No criminal action pursuant to section 1341 or 1343 of title 18, United States Code, may be brought against a domestic concern, its officers, directors, employees, or any shareholders thereof acting on behalf of such domestic concern for a payment, gift, offer, or promise to a foreign official based upon the theory that the foreign official or the domestic concern violated a duty to or defrauded the foreign government or the citizens of a foreign country.

AUTHORITY TO ISSUE GUIDELINES

SEC. 8. Title I of the Business Practices and Records Act is amended by adding at the end thereof the following:

"GUIDELINES AND GENERAL PROCEDURES FOR COMPLIANCE

"SEC. 105. (a) Not later than six months after the date of enactment of this section, the Attorney General, after consultation with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury,

and after consultation with representatives of the business community and the interested public through public notice and comment and in public hearings, shall determine to what extent the business community would be assisted by further clarification of section 104 of this Act and shall, based on such determination and to the extent necessary and appropriate, have the authority to issue—

"(1) guidelines describing specific types of conduct associated with common types of export sales arrangements and business contracts which the Attorney General determines constitute compliance with the provisions of section 104 of this Act; and

"(2) general precautionary procedures which issuers or domestic concerns may use on a voluntary basis to ensure compliance with this Act, and to create a rebuttable presumption of compliance with this Act.

The guidelines and procedures referred to in the preceding sentence shall be issued in accordance with sections 551 through 557 of title 5, United States Code.

"(b) The Attorney General, after consultation with other Federal agencies and representatives from the business community, shall establish a Business Practices and Records Act Review Procedure for the purpose of providing responses to specific inquiries concerning enforcement intentions under this Act. The Attorney General shall issue opinions, within thirty days, in response to requests from domestic concerns, regarding compliance with the requirements of the provisions of section 104 of this Act. An opinion that certain prospective conduct does not involve a violation shall be final and binding on all parties, subject to the discovery of new evidence. When appropriate, and at reasonable intervals, the responses derived from the review procedure will be reviewed by the Attorney General to determine whether such compilation of responses should be included in a new guideline pursuant to subsection (a).

"(c) Any document or other material provided to, received by, or prepared in the Department of Justice, or any other department or agency of the United States Government, in connection with a request by a domestic concern for a statement of present enforcement intentions under the Business Practices and Records Act Review Procedure pursuant to subsection (b) of this section, or in connection with any investigations conducted to enforce this Act, shall be exempt from disclosure under section 552 of title 5, United States Code, regardless of whether the Department responds to such a request or the applicant withdraws such request prior to receiving a response. The Attorney General shall protect the privacy of each applicant, and shall adopt rules assuring that materials, documents, and information submitted in connection with a review procedure request will be kept confidential and will not be used for any purpose that would unnecessarily discourage use of the review procedure. The review procedure shall be developed and instituted in accordance with sections 551 through 557 and 701 through 706 of the title 5 United States Code.

"(d) The Attorney General shall make a special effort to provide timely compliance guidance to potential exporters, and smaller businesses, who as a practical matter are unable to obtain specialized counsel on issues pertaining to this Act. Such assistance shall be limited to requests for enforcement intention disclosures provided for under this Act, and general explanation of compliance responsibilities and of potential liabilities under the Act.

"(e) (1) On September 1 of each year the Attorney General shall transmit to the Congress and make public a detailed report on all actions which the Department of Justice has taken pursuant to this Act, along with

its views on problems associated with implementation, its plan for the next fiscal year to further implement the Act, and recommendations for amendments.

"(2) On September 1 of each year the Chairman of the Securities and Exchange Commission shall file with the Congress a detailed report on all actions which the Commission has taken pursuant to section 13(b) of the Securities Exchange Act, its views on problems associated with implementation, its plans for the next fiscal year to further implement such section, and its recommendations for amendment."

INTERNATIONAL AGREEMENTS

SEC. 9. (a) It is the sense of the Congress that the President should pursue the negotiation of an international agreement among the largest possible number of nations on illicit payments, including, a process by which problems and conflicts associated with such practices could be resolved.

(b) Within one year after the date of enactment of this Act, the President shall report to Congress on—

(1) the progress of the negotiations referred to in subsection (a);

(2) those steps which the administration and Congress should consider taking in the event that these negotiations do not successfully eliminate the competitive disadvantage of United States business; and

(3) possible actions that could be taken to promote cooperation by other nations in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

This report shall also include recommendations for any new legislation required to give the President authority to take appropriate action to achieve such objectives. The report shall contain an analysis of the potential effect on the interests of the United States including United States national security of the corruption of foreign officials and political leaders in connection with international business transactions involving persons and business enterprises of other nations. In addition, the report shall assess the current and future role in curtailing such corruption of private initiatives such as the Recommendations to Governments and Rules of Conduct to Combat Extortion and Bribery developed by the International Chamber of Commerce.

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

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, the Foreign Corrupt Practices Act proved to be a watershed in legislative compromise, and I want to take this opportunity to commend the distinguished Senator from Rhode Island, Senator CHAFEE, the author of the bill, the distinguished Senator from Wisconsin, Senator PROXMIER, the author of last year's bill, and the distinguished manager of the bill, Senator HEINZ, for their careful and constructive negotiations behind the scenes which resulted in the swift passage today of the Foreign Corrupt Practices Act.

Additionally, I would like to thank William Brock, my good friend who, as the U.S. trade representative, assisted the Congress in the passage of this important measure.

Mr. HEINZ. Mr. President, I take one moment to thank, first, my distinguished comanager of the bill, Senator PROXMIER, for his great care and work on this legis-

lation. I think the bill is a vastly improved product because of the care, time, and attention he has put into this effort.

I also pay my respects to the incredible diligence and fortitude of the Senator from Rhode Island, who, notwithstanding a great deal of heat that his original version of this bill generated, has persevered and moved this bill through the Senate. He has done so without, to my ear, not a single—and I am pressing his luck and mine—not a single dissenting vote raised against what might have been an extremely controversial measure.

It is a great tribute to Senator PROXMIRE, Senator CHAFEE, Senator DODD, Senator D'AMATO, and others that we have been able to get this legislation through.

And I thank all Senators for their understanding and cooperation.

Mr. PROXMIRE. Mr. President, will my good friend from Pennsylvania yield?

Mr. HEINZ. I yield.

Mr. PROXMIRE. My friend from Pennsylvania is a silvery tongued orator and he also does more with his silver tongue. He attributed to me a vote I did not cast.

I agree there is enormous improvement on the original bill. The Senator from Pennsylvania did a splendid job of leadership on this bill. Frankly, I did not vote in favor of this bill. If I have to be put on record, I voted against the bill. I did so recognizing, as I say, it has improved, and I hope it will be improved further in the House of Representatives.

I again congratulate my good friend from Pennsylvania, the distinguished Senator from Rhode Island, who did a marvelous job under difficult circumstances over a period of many months, and the Senator from Utah (Mr. GARN), the chairman of the committee, who, of course, supervised the whole operation.

I think we have done something today that was an improvement on what was but would have been better if we had not done it at all.

Mr. GARN. Mr. President, I compliment both Senator HEINZ and Senator D'AMATO, two subcommittee chairmen of the Banking Committee, and in particular, Senator CHAFEE. They have worked on this long and hard. It has been a difficult process.

I think the original intent of this bill was excellent. It did not come out in this matter and has caused some difficulty.

I very much appreciate the work also of Senator PROXMIRE who did not agree with some of the changes that we wanted to make but nevertheless has been actively involved as he always is and is sincere in his beliefs.

So I simply wished to add those remarks about how much I appreciate the members of the Banking Committee on the work they have done on this issue.

Mr. CHAFEE. Mr. President, I particularly thank the staff members who worked on this. This was a situation where the staff had to meet time and time again both with all the parties affected, not only the Senators but also the members of the business community, and accounting profession, and I tip my hat particularly to John Daniels, Paul Freedenberg, Lindy Marinaccio, Bill

Reinsch, Bill Mattea, and, of course, Christine Bliss from our staff.

They really worked extremely hard and all too often the credit is given to Senators, and we are delighted to take it, but this was the case where a hard, persevering effort by those staff members that I mentioned and others helped produce this result unquestionably.

Mr. PROXMIRE. Mr. President, will the Senator from Rhode Island yield on that point?

Mr. CHAFEE. I yield.

Mr. PROXMIRE. Mr. President, I could not agree more. I think the staff did a superb job and worked long on this. My own staff, Charles Augustus Lindbergh Marinaccio, was especially starring. I am proud of the job he did. He is a former prosecutor as we know and that showed up.

Mr. HEINZ. Mr. President, if the Senator will yield, I agree with him. I commend Paul Freedenberg, John Daniels, Bill Reinsch, and Lindy Marinaccio.

I commend the staff because this bill has really tested everyone's patience. It has been incredibly difficult to get down into the details of every word, and on that we really demanded a great deal of research and careful evaluation from the staff, and we are most appreciative.

I second what Senator PROXMIRE and Senator CHAFEE have said.

I thank the Senator for yielding.

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

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

THE SECOND CONTINUING RESOLUTION

Mr. DODD. Mr. President, last evening the Senate passed the conference report on the continuing resolution. This morning the President—predictably—vetoed that resolution, charging that Congress was perpetuating inflation by overspending.

Mr. President, I wish the RECORD to show that those two events were not stages in the legislative process but rather two scenes in a very carefully orchestrated political charade.

Regardless of the events in acts 1, 2, and 3 of the continuing resolution, the President was determined to veto the continuing resolution regardless of what transpired in the conference that carried on late in the evening last week.

First of all, the conference report did not overspend.

Mr. President, I ask unanimous consent at this juncture to have printed in the RECORD a copy of the "Talking Points on Second Continuing Resolution" which David Stockman, Director of the Office of Management and Budget, used in explaining the administration's position to Congress.

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

TALKING POINTS ON SECOND CONTINUING RESOLUTION

OVERALL SAVINGS

On September 24, the President asked for a 12 percent reduction in discretionary appropriations for domestic agencies. This would have saved \$8.5 billion in FY 82 outlays and additional amounts in future years.

In a letter to Senator Baker earlier this week, the President indicated a willingness to meet Congress half-way and accept a \$4.0 billion outlay savings as achieved by the Senate Continuing Resolution with the Baker 4 percent amendment.

The Continuing Resolution Conference Report now pending will save only \$2 billion in discretionary outlays, or less than one-fourth of the original request.

CONFERENCE REPORT ADDITIONS TO THE SENATE CONTINUING RESOLUTION WITH 4-PERCENT AMENDMENT

The Conference Continuing Resolution will add \$3.5 billion in budget authority to the eight domestic agency bills as follows:

Item	Senate	Conference	Difference
Total new budget authority.	\$213	\$214.5	+\$1.5
Adjustment for conference underfunding of entitlements.	0	1.7	+1.7
Invalid budget authority savings in conference CR base.	0	.3	+.3
Total.....	213	216.6	+3.5

The above increase in new budget authority will increase outlays by \$2.0 billion in FY 82 and additional amounts in future years.

GENERAL CONSIDERATIONS

Implementation of the President's Economic Recovery Program requires large additional spending reductions in FY 83 and FY 84—at least \$75 billion.

Failure to hold down the base of discretionary spending in FY 82 will only increase the over-spending problem in future years and add to out-year deficit size.

Without a steady and substantial reduction in Federal spending growth and deficits, a renewal of high interest rates, inflationary pressures and impediments to economic growth and job creation are threatened.

COMPARISON OF SENATE CR AND CONFERENCE AGREEMENT ON 8 DOMESTIC AGENCY BILLS

	Senate	Conference CR	Difference
(1) Total budget authority as calculated by HAC.....	213,005	214,516	+1,511
(2) Adjustment for underfunding of entitlements in Conference CR (increase to discretionary budget authority).....		1,728	+1,728
(3) Adjustment for invalid Budget Authority reductions and 2% calculation in Conference CR.....		320	+320
(4) Total.....	213,005	216,564	+3,559
Memorandum: Reconciliation to Reported Budget Authority Totals			
(5) Total Budget Authority as calculated by HAC for 8 Domestic Agency Bills....	213,005	214,516	+1,511
(6) Military Construction.....	6,746	6,216	-530
(7) Foreign Assistance.....	11,400	10,075	-1,325
(8) Defense.....	196,712	196,712	0
(9) DC and Other.....	602	546	-56
(10) Subtotal (6-9).....	215,460	213,549	-1,911
(11) Grand total, HAC reported.....	428,465	428,065	-400

Mr. DODD. Mr. President, this memo demonstrates conclusively that the conference report actually saves \$400 million more than the Senate version which the administration pronounced as acceptable only a few days ago.

It would simply stretch the limits of human credulity to believe that 14 Senators of the majority, who are members of the conference committee, would have affixed their signatures to the report after they had the opportunity to confer with Mr. Stockman on precisely that issue without assurance that the President found it acceptable.

The Stockman memo shows in no uncertain terms that Mr. Reagan's objective was not to the bottom line of the conference report but to its components.

Frankly, the President did not like its priorities. The Stockman memo shows that the administration believes we are spending \$1.5 billion too much on domestic spending and \$1.3 billion too little on foreign assistance.

The Stockman memo shows that this administration wants to spend more than Congress desires on foreign aid and less than Congress wants on the American people.

This is not a theory or a hypothesis or an interpretation on my part. It is a cold and cold-hearted fact that shows up on the neat columns of Mr. Stockman's own arithmetic.

In short, the Stockman memo shows that this administration's priorities are the issue and those priorities are disgracefully skewed.

As to last night's performance on the Senate floor, here were some of the highlights. The conference report which the President had announced his intention to veto was passed last evening by overwhelming support of the majority of this body against strong opposition by the minority.

Trying to invent a rationale for what was clearly an irrational act, Senators of the majority party argued that they were going to vote for the report because it was so bad they could not wait for the President to veto it. Trying to orchestrate a majority vote for the resolution to conclude the drama, the majority members of this body switched sides more often than one sees in a square dance.

It was, we saw, not only an exercise in bad legislation or bad procedure or bad appropriations it was all there, and it was a high price to pay to allow the President to veto a bill for reasons that it refuses to admit even though they are clear on the record.

It was also an unnecessary price. The debate last evening made clear that if we had rejected the conference report, a course urged by a number of Senators on this side of the aisle, it would actually have speeded up the resolution of this issue and provided the funds so that the Federal Government could continue to function.

That alternative had qualities of sound policy and commonsense. It was, therefore, rejected so that the administration could veto a bill which should not have been passed, for reasons that it refused to acknowledge.

Mr. President, I think the real reason becomes quite clear when one looks at the talking points that the Director of the Office of Management and Budget used. A \$1.5 billion excess in the conference report and a \$1.3 billion shortfall in foreign aid from the administration's point of view is clearly where the issue resides. It is not in the level of spending. And this memo clearly makes that evident.

Mr. President, I draw my colleagues' attention particularly to the first page of this report entitled, "Memorandum: Reconciliation To Reported Budget Authority Totals." Note there the figures identify the amount supported by this body, with a total of \$428,365,000,000. The conference report language which reported a figure of \$428,065,000,000 showed actually \$400 million less than the Senate had adopted only a few nights before. Then with pluses and minuses attached to them the Budget Director pointed out that we had spent \$1.5 billion too much in domestic agency bills, \$530 million too little in military construction, \$1,300,000,000 too little in foreign assistance, and \$56 million too little in the District of Columbia and other items. The aggregate is \$400 million less than the administration would have liked, as this memo indicates. Let the record show that such is the only real reason for an administration veto.

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 4 o'clock in which Senators may speak for not more than 10 minutes each.

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

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

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

ORDER TO HOLD HOUSE MESSAGE ON CONTINUING RESOLUTION AT THE DESK

Mr. BAKER. Mr. President, I have conferred with the distinguished minority leader who has cleared this request; I ask unanimous consent that the message from the House on the December 15th continuing resolution be held at the desk when received pending further disposition by the Senate.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NATIONAL BUDGET PROCEDURES

Mr. FORD. Mr. President, the country today is experiencing a shameful example of the weaknesses and failures of our national budget procedure. Without dwelling on the merits of this present veto controversy between the President and the Congress, I wish to make only one brief general observation.

In my opinion, the tragic stalemate we have reached in providing funds for the operation of the Government stems quite largely from our retention of the archaic annual budget system—a system which simply does not afford time for the executive and legislative branches to budget and appropriate effectively.

I call attention again to S. 1683 which several of our colleagues and I introduced several weeks ago. The time has now come to give serious consideration to going to a 2-year budget and appropriation cycle—and I urge the appropriate committees to schedule hearings on this measure at the earliest opportunity.

Mr. President, tomorrow I should like to speak at greater length on the need for a 2-year budget cycle, and at this time I should like to ask the leadership for time during the morning hour.

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

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

THE ECONOMY

Mr. JOHNSTON. Mr. President, to say that the Nation is in economic distress is perhaps an understatement. Housing starts are at the lowest position they have been in since they have been keeping records on that subject. More people are unemployed in this country than were unemployed at the end of the Great Depression in 1939. The steel industry is sick. The housing industry is sick. Small businessmen are going bankrupt at record levels. The automobile industry is virtually defunct in this country. Farmers are in great difficulty. Thrift institutions are threatened with bankruptcy.

In general, the economy is exceedingly sick and getting sicker by the day.

The question is, Mr. President, how do we as a Nation, how do we as a Congress, solve that problem? What we are about today, Mr. President, whether to pass or not pass this continuing resolution, is almost beside the point on the question of solving that great problem. Whether or not the appropriate spending level is \$428 or \$426 billion, which was the question at issue on the veto vel non of this

continuing resolution as of yesterday, really is totally beside the point. The American people need to understand that whichever side you were on as far as that continuing resolution is concerned, you are neither going to solve the problem nor are you going greatly to contribute to that problem.

I fear that, as I read the morning press accounts, you had two positions: One position which the Congress took, that is to say, one position that the Republican majority in this body took, which was to pass a resolution which contained spending which, according to the President, was too great; and the other position was to be against the resolution, which I and my colleagues took.

But the question of whether or not that resolution was passed or was not passed is almost beside the point. It is beside the point, Mr. President, because the measure of our difficulties is immensely greater than the \$2 billion difference in the different versions of that continuing resolution.

The deficit this year will probably approach \$80 billion, or perhaps even more. In the direction we are going, the deficit, by fiscal year 1984, could reach \$148 billion, by recent estimates.

Those kinds of deficits are going to breed high interest rates, even higher than we have now; they are going to breed inflation, perhaps of a quantity and level that this country has not known, at least in modern times.

Those kinds of economic difficulties, Mr. President, called for not just a mid-course correction, but a somewhat radical change in how we do business in this country.

Mr. President, we have a very popular President who has been called "The Great Communicator." I have tried to support him in much that he has done because I think much that he has said has gone in the right direction. But it is perfectly obvious, Mr. President, that the present course we are embarked upon, with or without the continuing resolution that we have passed, is not going to work. With a President with that kind of mandate, with that kind of leadership, with that kind of ability to communicate, it is his responsibility, Mr. President, to come up with an economic plan that promises to work and promises to work rather quickly.

In the Budget Committee, Mr. President, we grappled with that question of whether or not we ought to make that basic change in direction. We were told that the President was against that change in direction at this time; that he wished to delay until his January 15 budget message in order to present those basic changes in our economic policy.

I regret that the delay was necessary. It seems to me that the level of difficulty of this present economic crisis calls for action and action now, and the passage of 2 or 3 months before we get the policy means 2 or 3 months further into the difficulty we are faced with.

Nevertheless, it is clear at this point we will not receive that basic message, that basic change, until January 15.

I think what we have to face up to and what we need to prepare the Amer-

ican people for is that come January 15 we are going to have a debate as to the basic economic policy which this country must follow for the next year or two, or the next decade. It will involve sacrifice; it will involve difficulty; it will involve compromising the interests of basic constituencies. Those are going to be the issues that are going to make the difference in whether we can bring interest rates down. They are not going to be decided by whether or not we cut or do not cut \$2 billion from the budget.

A friend of mine described the way the press treats some of these economic questions as a Superbowl mentality, who is ahead at a particular time in terms of whether they pass or do not pass a policy.

In terms of a Superbowl mentality, I think the President's veto of this continuing resolution in the public mind may put the President ahead in terms of being ahead a few yards or being ahead a few points in a particular contest, in a particular confrontation, between the Congress and the President. But, Mr. President, the time has rapidly come when we can no longer afford a Superbowl mentality when we deal with the economic questions of this country.

The kind of mentality which we have to have, it seems to me, Mr. President, is one of joint cooperation, bipartisan, and also one in which the Executive and the Congress work together, because if we do not have that kind of common purpose we are not going to lead the American people to make the kind of sacrifices which they must make in order to change policy. And policy must be changed. We cannot tolerate a \$148 billion deficit in fiscal year 1984.

Mr. PROXMIRE. Will the Senator yield briefly?

Mr. JOHNSTON. Yes, I will.

Mr. PROXMIRE. I commend the distinguished Senator from Louisiana for what he is saying. There has been too little talk from the administration or anyone else about sacrifice. That is what the Senator from Louisiana is talking about. Sacrifice in terms of paying higher taxes, if necessary, than the President has proposed; sacrifices in terms of spending cuts that do hurt and hurt greatly; and making compromises in areas where we feel otherwise we would like to go ahead.

This is the kind of talk that the Senator from Louisiana is giving us now that we should hear more about in this country because we will not make the kind of progress we have to make, to get our inflation under control, to bring down the interest rates, without a genuine sacrifice, including a policy that holds down wage increases and price increases, that has a free trade policy, an antitrust policy.

All these things have to be put in place. They all cause pain and difficulty on the part of many, many people. I am delighted the Senator from Louisiana is making this statement. It is a good statement to make and I support it.

Mr. JOHNSTON. I thank the distinguished Senator from Wisconsin.

Mr. President, my message is complete. We must be prepared for the big battle

ahead. This is not the big battle. The big battle is in January.

Mr. HART. Mr. President, if the Senator will yield, I would like to associate myself with the statement made by the Senator from Louisiana.

He makes a very important point. When the President decided 2 weeks ago to, in effect, walk away from this economic mess we are in until mid-January and put the issues over until the 1983 budget, he, in fact, created the kind of economic and fiscal backing that has brought the chaos of the past 72 hours or more. I think it lies ill with the President now to criticize the Congress for trying to solve a problem that he himself abandoned, and abandoned voluntarily, until next year.

It was an honest effort, a bipartisan effort, an effort by both Houses of Congress, to keep the Government in operation. I think, frankly, the actions taken by the President, given his abandonment of responsibility here, are not too worthy of the office.

I want to associate myself entirely with the Senator's analysis of the present situation and also his projection about what lies ahead.

What we do here today is not approaching solutions to the problems of this country one iota. It is just maintenance of the status quo and an attempt to buy time until the real serious fundamental, structural problems of this country's economy can and must be addressed.

There, we must look to the White House and the President for leadership and guidance and direction. We may or may not agree with him, but I think, frankly, that putting the whole thing off until January was a very serious mistake.

Mr. BAKER. Mr. President, has time for morning business expired?

If the Senator from Louisiana wishes me to, I shall extend it. We are ready to receive a message from the House on the continuing resolution. I am prepared to go with that or extend morning business.

Mr. LONG. Mr. President, I would like to have a minute or two.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for morning business be extended to 4:15 p.m.

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

Mr. LONG. Mr. President, in mind of what my colleague said, I think the sooner the administration faces the situation that we are not going to be able to finance this Government with the Laffer curve, the better off we are going to be. I am aware that when you cut taxes, it stimulates the economy, or we hope it will. When interest rates come down, that will stimulate the economy and generate more revenue. That will also help.

Even with these economic considerations, unless the Laffer theory works a great deal better than most of us here think it will, this Government is going to need more revenue. The tax cut created a problem that will live with us for quite a while to come.

I think it is time that we recognized that we are not going to be able to fi-

nance national defense and the other essential needs of this country with a free lunch. It is not going to work.

Mr. NUNN. Will the Senator from Tennessee allow me 2 minutes here? I want to pose a couple of questions to the Senator from Louisiana.

Mr. BAKER. Yes, Mr. President.

Mr. NUNN. Mr. President, last night, he posed a question to the majority leader and the majority leader answered him very frankly and candidly, but the answer left us in some degree of confusion. The question was, if we wanted to help the President last night, should we vote for the continuing resolution that he wanted to veto, or should we vote against the continuing resolution that he wanted to veto because of some bad points. Did the Senator from Louisiana ever get the answer to that question? Can he clarify it now?

Mr. JOHNSTON. I think the answer now—

Mr. BAKER. Mr. President, would the Senator let me answer the question?

Mr. NUNN. I would prefer to hear the Senator from Louisiana first.

Mr. BAKER. Mr. President, if I were in the courtroom, I would object on the hearsay rule, but I shall let them go ahead.

Mr. NUNN. I will ask another question in a moment.

Mr. JOHNSTON. Actually, the question was asked of the distinguished Senator from Illinois (Mr. PERCY), who said that that question addressed itself to the conscience of each Senator individually. Incredibly, the conscience of all the Senators on that side said no and the conscience of all the Senators on this side said yes—or maybe it was vice versa. I cannot understand why a question of conscience should have been decided on party lines.

Mr. NUNN. Mr. President, what I want to ask is that last night, we were told if we wanted to help the President, what we should do is send him a bad bill which he condemned so he could veto it. Now it is my understanding that we have a continuing resolution from the House that the President agrees with. If the logic last night was that we vote yea and send him a bad bill which he can veto, does that mean the logic today is to vote nay, because it is a good bill that pleases him?

Mr. JOHNSTON. To be consistent, Mr. President, I would say that is where the logic lies. [Laughter.]

Mr. BAKER. Mr. President.

The PRESIDING OFFICER. There will be order in the Senate. The Senator from Georgia has the floor.

Mr. NUNN. I would like the Senator from Louisiana to complete the answer so we can all be clear on this subject.

Mr. JOHNSTON. Mr. President, if the Senator is in a search for consistency, I think he will not find it anywhere in the city of Washington today. Frankly, the whole thing is totally mystifying to me, why this artificial crisis should have been created. I read in the paper today that the President had sent word to all the agencies only to come to work with a view to shutting down to create this great air of crisis. A crisis? Why?

I hear the President being very critical of the Congress for irresponsible actions which they have taken. Well, just who passed that resolution last night? Who was irresponsible last night? Not I. Not the Senator from Georgia. Just who was it that was so irresponsible?

Mr. BAKER. Mr. President, all I can say is if you want to clarify this and help the President, let me bring this message in from the House.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, is there further morning business?

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

THIRD CONTINUING APPROPRIATIONS, 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House just received.

The PRESIDING OFFICER. The clerk will state the continuing resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 368) making further continuing appropriations for the fiscal year 1982.

The Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, I have no idea how long the Senate wishes to debate this matter. There is one amendment to the resolution which was adopted, other than the date change. I recommend that the Senate make no change at all and that the Senate concur in the resolution as passed by the House of Representatives.

Mr. President, may I inquire of the distinguished minority leader or managers of the bill how long we may take on this? I am prepared to enter into a time agreement. Sometimes that prolongs the debate rather than shortens it. It is now 4:15 or a little after. I know some Members here, perhaps all the Members in the House, are trying to make their plans, at least in part, based on how fast the Senate deals with this matter.

Could the minority leader indicate to me whether it will be possible to have a time agreement for the consideration of this resolution?

Mr. ROBERT C. BYRD. Mr. President, I think that it should be agreed to go to vote no later than 5 p.m. today.

Mr. BAKER. Mr. President, I ask unanimous consent that the vote on this measure occur no later than 5 o'clock and that the time between now and 5 o'clock be divided equally, if it is agreeable to the minority leader, between the two managers of the resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HART. Mr. President, will the Senator from Tennessee yield for a question?

Mr. BAKER. Yes.

Mr. HART. I wonder if the distinguished majority leader would care to

outline in brief terms what the resolution is so we know what we are voting on?

Mr. BAKER. Mr. President, the resolution is the product of a resolution introduced by the distinguished chairman of the Committee on Appropriations, I believe, on the House side—Mr. WHITTEN, to provide for a continuing resolution at the levels of the continuing resolution which expired at midnight on November 20 forward to February 1, as amended by a motion to recommit by the distinguished minority leader in the House, with instructions for the committee to report back for it with that same resolution with a December 15 expiration date instead of a February 1 expiration date; and adding one amendment.

The House added one amendment dealing with funding levels for public service hospitals and clinics.

Mr. HART. So, in a word, would it be accurate to say that this resolution will continue the operations of the Government at the same levels as they were operating at before the debate this week?

Mr. BAKER. Yes.

Mr. HART. I thank the majority leader.

Mr. EXON. Mr. President.

The PRESIDING OFFICER. Who yields time?

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

Mr. EXON. Mr. President, I should like to ask a question of the majority leader. I should like to ask the majority leader, Mr. President, regarding the recommendations that he has just made to us. Before I ask the question, I wish to refresh the memory of my colleagues that I rose in similar fashion on Saturday a.m., sometime between 3 and 4 o'clock, and asked the majority leader at that time if the President would sign the continuing resolution that we were then debating if, indeed, the figures incorporated in the Byrd-Baker amendment were eventually accepted. The answer at that time by the majority leader was, yes, he could assure us that that would be the case.

I cast no aspersions at all on the sincerity of the majority leader at that time. I do not know what happened thereafter, but I happen to feel that the majority leader may have been let down somewhere along the line. He made that commitment to the Senate but I emphasize once again that I do not think the letdown or the change in signals was in any way anticipated by the majority leader; indeed, I would suspect that he would say there was no change in signals.

I ask this question: Can the majority leader assure us without any ifs, ands, or buts, or can he make an unequivocal assurance to the Senate that, if we go along with the measure now before us, which is what many of us on this side of the aisle wanted to do several days ago and which most of us on this side of the aisle, indeed, wanted to do last night, to eliminate this fake chaos in Government—basically, can the majority leader assure me, without any exceptions, that the President had made a firm commitment to sign this conference report and not veto it if we pass it?

Mr. BAKER. Mr. President, may I say in response to my friend from Nebraska that, indeed, he is correct in his surmise. I will contend—I contended then and I assert now—that the representation made by me to the Senate, and the representation made to me by the President were abided by and were never changed. That is to say, if the Senate concurrent resolution as amended by the Baker-Byrd amendment, were adopted—that is, survived conference—the President would sign it. Mr. President, it did not survive conference.

While it is true that, on the late evening of the final night of the conference, there were many who asserted that the numbers that were adopted by the conference report were the equivalent of the Senate-passed bill, on careful examination it was determined that they were not the equivalent of the Senate-passed bill—not because anybody was deceitful or trying to deceive, but, rather, because the House has assumed one base for computation, the Senate bill assumed a different base. Thus there was a difference of numbers that amounted to something in the range of \$2 billion. It was on that basis that the President vetoed the bill.

The President, however, was constant in his position. He would have signed it had those numbers survived. He never wavered from that commitment.

Mr. President, I am prepared to tell the Senate now and I do represent to the Senate that if this resolution is adopted without amendment, the President will sign it.

Mr. EXON. Mr. President, I thank the majority leader very much. If that is a direct answer, then I think we can understand and I am sure that this one Senator therefore will enthusiastically vote for this amendment. I only wish that we could have done it last night to stay away from all these theatrics.

Mr. SARBANES. Will the Senator yield?

Mr. EXON. I shall yield in just a moment, Mr. President.

When the majority leader was speaking, I noticed the distinguished chairman of the Committee on Appropriations sitting in his chair. I meant to ask him a question last night and since it was brought up once again, I wonder if the head of the Appropriations Committee would respond to a question.

I should like to ask him, as a point of reference, at 1:30 in the morning, or thereabout, on Sunday last, when he and all the other members of the majority side on the conference committee signed that report—the head of our conferees, the distinguished chairman of the Appropriations Committee—were he and the other conferees led to believe at that time, when they signed that report, that the figures imposed and anticipated in the Byrd-Baker amendment were in fact the consensus of the reporting committee?

Mr. HATFIELD. Mr. President, I say, in response to the Senator from Nebraska, that we left that conference with high expectation that that would satisfy all the parties involved. But I must always say that I have been in this business

now for 30 years, and I never count anything for certain until the signature is on any document or until the last vote is counted.

However, I want the Senator to know that there was high expectation that this would satisfy the criteria laid down by the administration and which was reaffirmed by the Senate action taken in our own bill, House Joint Resolution 357—that is, our version of the bill we took to conference.

I will say, too, that along the way there had been some ongoing disagreements among the computers, as I said last night, that there were certain data that we did not agree upon. It did indicate the possibility of the results we then finally experienced. We had hoped that we could overcome those disagreements of the data between the computers and get the bill signed.

Mr. EXON. I thank my good friend. I should like to ask one follow-up question.

In the opinion of the chairman of the Appropriations Committee, were the figures that were finally reported to the Senate by the House and the conference report substantially different from those that were embodied in the Byrd-Baker compromise?

Mr. HATFIELD. There was a \$400 million differential in budget authority as we computed our budget authority. We went into that conference with \$428.4 billion, and we came out of the conference with \$427.8 billion.

Therefore, in effect, we were \$400 million under the Senate version. Actually, it was \$600 million. I said \$400 million, and I misspoke myself. It was actually \$600 million under.

Again, there has been a reconfiguration of those accounts and those titles within the conference. There is no question about it. We did make some changes in the accounts and titles. Having made those changes, the reaction of the administration was that it had greater impact on the real spending than the original figure.

Let us bear in mind that the budget authority, the BA, is what the House works on, and that is what we work on to a lesser degree; but we still have our emphasis in the Senate Appropriations Committee on budget authority. But, again, the OMB has historically worked more with the budget outlay factor. We know that the difference between budget authority and budget outlay can be great or little, depending on the rate of expenditure, and so forth. But from the budget authority standpoint, we were \$600 million under the Senate version.

Mr. EXON. I thank my distinguished friend and colleague from Oregon, for whom I have the highest respect.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I listened to the President of the United States this morning with admiration and with interest and with amazement—admiration because the President was able to put the matter in a very simplistic context, focusing on a somewhat irrelevant aspect of the whole prob-

lem and of course leaving the viewing audience for the most part, I suppose, with the idea that here the President was battling to veto a bill that constituted budget-busting figures, Mr. President, let us see if we can take a look at this picture in its proper context.

The country is faced with a drain on the Treasury, resulting from the Kemp-Roth tax cut, of \$38 billion this year, \$93 billion next year, \$150 billion the third year, \$199 billion the fourth year, and \$268 billion the fifth year—making a total of about \$749 billion.

We are faced with a recession. We are faced with high interest rates. We are faced with unemployment that is now at 8 percent. We are confronted with bankruptcies that are running 41 percent or 42 percent above last year—roughly 15,000 bankruptcies to date. We are faced with massive deficits down the road, as a result, in large part, of the enactment of the multiyear Kemp-Roth tax cut.

Now the administration realizes that it is up against these prospective massive deficits, but it wants to make people believe that those deficits will have been caused by an uncooperative Congress, by a Congress that is passing "budget-busting" bills, and that the President is saving the country by having vetoed a budget-busting continuing resolution that was \$2 billion above what he wanted.

The President referred to the continuing resolutions that have been passed from time to time. He refers to those as "budget busters." He stated that Congress ought to pass the appropriation bills. He refers to them as budgets.

The previous Presidents had the same problem, but they, from time to time, also had to accept continuing resolutions; but in this case, the President was not going to accept it.

Now, was it a budget buster? The amendment that was offered by Mr. BAKER, which called for a 4-percent cut, exempting defense and certain other categories, would have saved, in the words of Mr. BAKER, \$3.2 billion. The President stated that the conference report that had been passed by Congress and sent to him would not save enough to meet his requirements.

What was the difference? The amendment by Mr. BAKER would have saved \$3.2 billion. The conference report that was agreed to by Congress would have saved \$2 billion. So there is a difference of \$1.2 billion. What is \$1.2 billion when we are talking about \$428 billion, which was involved in the whole conference report? It is one-fourth of 1 percent of the total—\$1.2 billion as against \$430 billion.

So what the President was doing here was vetoing a measure because it was \$1.2 billion under what he said he would accept—meaning the Baker proposal. He said he would accept that amendment. Now he vetoes the measure because it is \$1.2 billion below that figure and yet represents only one-fourth of 1 percent of the total.

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

Mr. ROBERT C. BYRD. I will yield in a moment.

Mr. President, what we have is what I said this morning was a manufactured

shoot-out at the OK Corral, and that is what it was.

Last night, we witnessed on this floor the adoption of a conference report that was supported by 44 Republican Senators. They had worked hard in conference; they had acted in good faith in conference. All the conferees on the Republican side, except one, signed the conference report, and all the Republican Senators who voted last night, with the exception of six, voted for the conference report.

So the President then vetoed that measure, which had been supported by the overwhelming majority of Republican Senators.

What is the real problem confronting the country? The real problem is the recession that has been brought on by the Kemp-Roth tax cut, the high interest rates, and the looming prospective budget deficits down the road that will result in large measure from the enactment of the Kemp-Roth tax cut which was rammed through Congress by the administration.

The administration is in trouble because of the high interest rates, because of the sluggish economy, and because of the recession.

So now it seeks to distract the attention of the people away from the recession, unemployment, and high interest rates and make the people believe that the \$1.2 billion by which the conference report fell short of what the President said he would accept in the form of the Baker amendment was a "budget buster" and that a veto of that measure is some big deal.

The President blames Congress because the appropriations bills have not been passed and sent to him.

Mr. President, I hope that we will focus on the real problem. The administration needs to get its economic house in order. It is in disarray. The Republican majority in the Senate voted overwhelmingly for the conference report that the President vetoed. Why? We on this side said last night in this Chamber that if the conference report were rejected, the other body would immediately initiate another continuing resolution providing for an extension of the date and the Government would not begin shutting down this morning at a cost to the taxpayers of something like \$1 billion, I am told.

So where we are now is where we were last night. We have a continuing resolution that has a date of December 15, only 3 days short of the date of December 18 which this Senate rejected when it was offered as an amendment by me on behalf of the Democratic minority a few days ago. We sought then to extend the date to December 18. We were defeated on a party line vote. Now the resolution before us calls for a December 15 date.

Mr. President, we could have had this same resolution last night if the Republican majority had joined with the Democratic minority and voted down the continuing resolution.

The House of Representatives would have sent over another resolution immediately. The House of Representatives

stayed in session until after the Senate went out last night. The House of Representatives was still in session.

No, we heard the cry from some on the other side of the aisle that "I do not like this conference report, it is all bad, but the President is going to veto it and I am going to vote for it so the President can veto it."

What kind of reasoning is that?

I think it was clear that the stage was set for a Presidential veto and that was the way the script ran.

The vote was for the continuing resolution which the President had pledged to veto. Flying in the face of that threat from the President, the majority of the Senate voted for the continuing resolution. The President vetoed it. The President went on television and he presented himself now as having saved the country from a "budget-busting" measure foisted on him by "the Congress."

Mr. President, I hope that the American people will see through this charade.

We could have had this same resolution last night before we went home, and the Government workers today would not be calling in on the telephone asking whether or not they are going to get their pay checks.

Mr. President, I intend to vote for this continuing resolution extending the date, but I wish to ask the distinguished majority leader a question.

The PRESIDING OFFICER. The time under the control of the minority leader has expired.

Mr. ROBERT C. BYRD. I wish to ask the majority leader a question.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I am very happy to yield time to the minority leader for asking his question as soon as we locate the majority leader and get him back to the Chamber.

Mr. President, I yield 2 minutes to the distinguished minority leader.

The PRESIDING OFFICER. The minority leader is recognized for 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have heard and seen the President twice on television blaming Congress for not sending the appropriations bills down to him.

There are on the Senate calendar four appropriations bills—Labor, HHS, Defense, military construction, Treasury, and Postal Service. The Defense appropriations bill is scheduled for next Monday by order of the Senate.

As I understand it, the conference report on the Interior bill has been adopted by the House of Representatives and is ready to be taken up in the Senate.

May I respectfully ask the distinguished majority leader whether or not he intends to call up these remaining appropriations bills and act on them if at all possible before the December 15 date which is contained in this resolution?

Mr. BAKER. Yes, I do.

As the minority leader knows, the Defense bill is set for November 30. State, Justice, Commerce has been temporarily laid aside and will recur as the pending business on a call for the regular order. Treasury has not yet been set. Military

construction will be scheduled soon, and I am told by the chairman of the committee it will take perhaps half a day.

Mr. President, it is my intention to try to complete all of these bills before the expiration of the continuing resolution.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I hope we can do that because I do not think that Congress should continue to be blamed for not having sent these measures down to the President.

The House of Representatives has acted on all but one of the appropriation bills. The Senate Appropriations Committee, under the leadership of the very able chairman, Mr. HATFIELD, has acted dutifully on all the appropriations bills, and reported them all to the calendar.

The PRESIDING OFFICER. The 2 minutes yielded to the Senator from West Virginia have expired.

Mr. ROBERT C. BYRD. I respectfully urge the distinguished majority leader to call up the appropriations bills as soon as he possibly can. This side of the aisle has been ready to act on them so that the President will get the appropriations bills and this will go a long way toward resolving the—

The PRESIDING OFFICER. The time yielded to the Senator from West Virginia has expired.

Mr. ROBERT C. BYRD. This will go a long way toward resolving—

Mr. HATFIELD. I am happy to yield. Mr. PERCY. Does the Senator have time to yield?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield how much the Senator wishes.

Mr. ROBERT C. BYRD. Just long enough to complete my sentence.

Mr. HATFIELD. I yield another minute to the minority leader.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for an additional minute.

Mr. PERCY. Does the distinguished floor manager have time to yield?

Mr. HATFIELD. I have time to yield. We have not used any time. I have yielded time for the asking of a question.

Mr. ROBERT C. BYRD. Mr. President, it seems to me that if we were to finish action on these appropriations bills, at an early date, it would go a long way toward relieving all of us of the problem of a continuing resolution.

Mr. HATFIELD. Mr. President, I yield to the majority leader the time he needs.

Mr. BAKER. Mr. President, the minority leader is right. This side of the aisle has been most cooperative in getting these bills up. I attach no blame to them nor indeed to the Senate.

I believe we could finish these appropriations bills in a relatively short period of time, and I assure him and all Senators that we will attempt to do that.

The PRESIDING OFFICER. Who yields time?

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

Mr. HATFIELD. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator has 15 minutes and 40 seconds.

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

Mr. HATFIELD. I yield to the Senator from North Dakota.

Mr. ANDREWS. Mr. President, I appreciate my chairman yielding.

Briefly, following up the remarks of the distinguished minority leader, some of us on the Republican side of the aisle, of course, were conferees and we signed the conference report when we felt the President was in favor of the bill. But we signed it largely because we thought it was a good bill, and after the President's announcement about a veto came down we voted for it irrespective of the veto announcement because we still thought it was a good bill.

Might I point out to the distinguished minority leader that the continuing resolution we are now voting on is less of a budget buster than the one we voted on 2 days ago. It is under the original target. As a matter of fact, the continuing resolution we are now voting on will carry on nondefense spending to the tune of about \$3 million a day less than the one that was vetoed and, of course, defense spending will be less.

The reason I wanted to pose a question to the chairman of the Appropriations Committee is that people in the Federal buildings in my State have been leaving in droves. The Department of Agriculture offices and the social security offices are not staffed. In fact, my own staffs in the Federal building have been told, "do not come in, in the morning because we are not going to have anyone to heat the building. We cannot turn the lights on. We cannot open the door."

I find this to be a bit of theatrics more than anything else. I wish to ask the chairman of the Appropriations Committee whether these Federal employees will, in effect, be paid for this hiatus of a day or two, or whether they are going to have their pay docked in their next pay envelope?

Mr. HATFIELD. Mr. President, I respond by quoting from the language of the resolution that we have pending before us now which in effect says that we will strike out the November 20, 1981 expiration date and insert in lieu thereof December 15 which means that we go back and pick up the hiatus, eliminate the hiatus and continue at 1981 level of spending.

So consequently those employees thereby could be paid under the continuity established by this continuing resolution.

Mr. ANDREWS. So that the evening news could tell those Federal workers that they are not going to find a shortage in their paycheck irrespective of all of the headline hunting from both sides of the political aisle that seem to have been going on in the last 48 hours?

Mr. HATFIELD. I hope that the communication could be set up that would relieve that anxiety for all those Federal employees who now feel that they somehow are going to be reduced for that period of time that they have been sent home.

Mr. ANDREWS. I appreciate the comments of the chairman.

Mr. SARBANES. Mr. President, will the chairman yield for a comment at this point?

Mr. HATFIELD. We have not had the floor until just now. Let me fulfill my commitments to those to whom I have promised to yield, and if we have additional time I am happy to yield to the other side.

Mr. SARBANES. Fine. I wished to commend the chairman on some of his work.

Mr. HATFIELD. I am very happy to yield for that any time.

Mr. SARBANES. I simply wish to commend the chairman for that response to what I perceive to be a manufactured crisis that created this turmoil today. I appreciate the response which the chairman has just given. As I understand it, the chairman and his conferees sought to avoid a crisis with a continuing resolution to begin with. They were, in effect, disappointed on that.

We could have done last night what we are doing now, which would have avoided the crisis. But I do appreciate that it does go back and pick up and that, therefore, reassurances can be given to the employees.

Mr. HATFIELD. I appreciate the remarks by the Senator. I know the Senator represents a great number of such people and is very careful to look after their best interests.

I agreed to yield to the Senator from Washington next.

Mr. GORTON. I thank the Senator from Oregon. I wish to echo briefly the remarks of the distinguished Senator from North Dakota in stating that I, too, voted in favor of the continuing resolution last night not with a desire for the President to veto it, but because I felt it represented a responsible approach and a responsible compromise between the Senate and the House under very, very difficult circumstances.

During the course of a relatively limited debate last night, there seemed to be a general assumption on the floor of the Senate that success in the process of writing a continuing resolution was measured by the degree to which the proposed 12 percent across-the-board cuts in discretionary programs recommended by the administration in September were actually reached. Along with the chairman of the Appropriations Committee, I disagreed with that presumption.

That success, I suppose, was to be related to the necessity or the goal of reaching a balanced budget at some time in the future. But any such success on such a limited basis could have been no more than a mirage, as the contribution to a balanced budget of the difference between what was passed here last night and what the President asked for was so different, as far as I am concerned, as simply to have been de minimis, as well as unfair in singling out for cuts, for the third consecutive time after reconciliation, after what the Appropriations Committee had done, exactly the same programs which have been cut already twice during the course of this year.

In my view, it is still appropriate, it is still necessary, for this Congress to aim

at a balanced budget in 1984. I am unwilling to give up that goal. But we will not reach that goal until we are willing to take on courageously the fact that it is necessary not just to look at discretionary appropriations, 10 or 15 percent or less of the overall budget, but to look at the growth in expenditures for national defense and to look especially at the growth and the rate of entitlement spending, perhaps the most difficult problem which will face this Congress but the single area of spending which is the largest. And, also, very bluntly, to look at the necessity for additional revenues coming from some sources other than the personal income tax of last summer.

When that takes place, we will balance the budget, we will control inflation and control interest rates truly. What we are doing here today to clean up after this minor mess of last night is a show but it is not the substance of the changes we need. I commend the chairman of the Appropriations Committee.

Mr. HATFIELD. I thank the Senator from Washington State. I yield to the Senator from Wisconsin for 1 minute.

Mr. KASTEN. I thank the chairman.

The Senator from Washington is correct. I think all of us understand that we have to get revenues and entitlements under control and that we are only whittling down one very small part of the overall budget.

The Senator from North Dakota is correct when he says we are spending at a higher rate. That is why we were successful in getting the December date rather than the February date the House of Representatives would have preferred. But I think it is also important to recognize that the President vetoed this bill not only because we did not reach the goals he sought, but also because of the fake savings that were in the bill. It is important to recognize that account after account was underfunded—these are entitlement accounts—and we would have to pay this money eventually in a supplemental. That is the key. The President said he is not going to stand for this kind of fake accounting.

I think if there is one thing the President has demonstrated it is that he is a man of his word. He is going to keep his commitments. And whether it is with the air traffic controllers or if it is the Libyans attacking our Air Force fighters, or what have you, this is a man who is going to stick to his guns. The amount might be small, but the message to the American people is great.

The PRESIDING OFFICER. The 1 minute yielded to the Senator has expired.

Mr. KASTEN. May I have 30 additional seconds?

Mr. HATFIELD. I yield 30 seconds more.

Mr. KASTEN. Mr. President, the misstatements creating yet more misunderstanding with reference to the U.S. Government's foreign assistance policy continue today.

We in the Senate have worked hard, and I think successfully, to continue the

tradition of a bipartisan approach to foreign policy. That has especially been the case with actions taken by both the Foreign Relations Committee and the Appropriations Committee.

The continuing resolution now before us is a simple extension of the previous stopgap funding mechanism—I emphasize "stopgap." When this resolution was first approved on September 30, it was looked upon simply as a temporary measure until the regular appropriations bills were passed.

With reference to the foreign assistance programs, the language of the resolution, which sets a rate at the lower of the fiscal year 1981 rate or the fiscal year 1982 budget request, provided for a markedly reduced level compared to the previous fiscal year. At the time this presented no concern because it was considered to be, again, a temporary stopgap measure.

Mr. President, the level of funding for foreign assistance in this resolution is approximately \$9.6 billion. This compares to a House reported bill of approximately \$11.1 billion, a Senate passed bill of approximately \$11.6 billion, and a level of spending for fiscal year 1981 of more than \$12.2 billion. As these figures show, the Senate passed appropriations for foreign assistance are below last year's funding, not above as is being bandied about from one end of the Capitol to the other. It is especially interesting to note that the House Appropriations Committee's own bill for foreign assistance, as reported by that committee, is \$1.5 billion more than the stopgap funding measure.

Mr. President, I hope that the short time this resolution is in effect will allow for a needed cooling of tempers and some soul searching by some who for short-term benefit would jeopardize U.S. foreign interests around the world.

Mr. HATFIELD. I yield 2 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

I take this time only because I am afraid of the misconception that is brought as to the meaning or the intent or what might be read into the way the resolution last night was presented and ultimately voted upon. And I regret that. Maybe my words are going to fall on deaf ears and maybe it is impossible to convince people that the seeming meaning of events do not really mean that.

It has been suggested that there was a scenario intended for a veto; that that was tied to the package all along. But I can tell the Members who are nodding their heads so vigorously now that they are utterly wrong. And I mean that most sincerely.

Having been involved with the attempts in the Appropriations Committee, within the leadership on this side of the aisle and in their conversations with the people from the administration, I can say that well past noon on Sunday the efforts were still going on to avoid a veto. And yet, when we got through last night, by the time we got into the vote, we found out that the people who were voting for the resolution were against it and all those who were against it were voting for it.

Well, that is not quite right, because we had a few that actually cast their vote on the side they felt about that particular resolution. But, if, as a matter of fact, the minority leader is going to tell us today that because we voted for it we must have been in favor of it, then I would assume that everybody on that side of the aisle who voted against it was opposed to it. As a matter of fact, that is not true.

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

Mr. McCLURE. The circumstances just kind of inverted that and for many of us it was a hard choice. The choice that I had was simply: How in the world do you get to the point of clearing away the wreckage so that you can start in building a consensus on a continuing resolution that we can all support before we adjourn? Believe me, there was no intention that I could devine from anything that I saw in the negotiations that were going on that intended that we come up with a product up here which the President could then veto.

The PRESIDING OFFICER. The 2 minutes yielded to the Senator have expired.

Mr. HATFIELD. I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I would like to address my remarks to the distinguished minority leader, who has called this activity in the White House a "charade." George Elliott said, "Leave us not inquire into the motivations of man." I feel that the motivations of the President were sincere. He felt deeply about this important issue.

First of all, the conference resolution reflected less than 25 percent of the \$8.5 billion reduction request that he made.

The President reached agreement with the Senate when we went 50-50 with him and settled on a \$4 billion cut. That was subsequently reduced to less than half of the agreed upon figure.

After all, as Everett Dirksen used to say to us frequently, "A billion here and a billion there and pretty soon you are talking real money." And \$2 billion is a signal. If we cannot increase this amount this fiscal year, then we are not going to cut the \$75 billion that he has asked for in 1983 and 1984.

Second, I think that it is terribly important that we all recognize that we have decimated the fiscal year 1982 foreign economic and military assistance program. We have truly undercut our ability to carry on our security interests in the Free World, to protect the Persian Gulf and carry on programs that we have committed ourselves to that we have worked on for one solid year, and that we have already ourselves cut this administration request by \$900 million.

So I believe the President is not only sincere. As I said last night I voted to send the bill downtown because I felt the President should veto the bill himself. If he is going to bring the Government to a halt, he is the Chief Executive of the executive branch of Government, and he has the responsibility to unwind to this issue as he did with the Cabinet this morning.

I felt he ought to have that responsibility because the Congress had reached

an impasse, we had conflicting figures, and this is what the President indicated he wanted to do. He was willing to send this signal—a near shutdown of the Federal Government—to the country. That is how serious he considered the matter and how dramatically he wanted it underscored.

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

Mr. PERCY. I have no time remaining to yield.

Mr. ROBERT C. BYRD. The Senator referred to me.

Mr. PERCY. I would be happy to yield if I have any time remaining.

The PRESIDING OFFICER. The Senator from Oregon has 2 minutes remaining.

Mr. HATFIELD. I yield 1 minute to the Senator from Alaska.

Mr. STEVENS. Mr. President, I just want to make very plain one item, within the continuing resolution before us and see if the Senator from Oregon agrees with me. I have been made aware that many Federal employees were furloughed and told to either take leave or they would not be paid today. It is my understanding that the Senator said—and I believe it is our intent—that this continuing resolution goes back to the expiration on November 20. Therefore, there is to be no hiatus in the Government or in the payment of salaries to Federal employees. This is in effect a retroactive application of this resolution.

Mr. HATFIELD. The Senator is absolutely correct. That is legislative intent. I would not presume to make a legal ruling, because I am not qualified to do so. But that is the legislative intent.

Mr. President, I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. President, to set the record straight, I voted against the joint resolution originally last evening, but then, on the impression which the Senator from Idaho has rather confirmed this afternoon that a great many persons voting for it were actually against it, I changed my vote in order to ask that there be a vote on reconsideration. Alas, that was not successful and we are where we are today where we could have been last evening. I thank the Senator.

Mr. HATFIELD. I yield 30 seconds to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join in commending the Appropriations Committee on its good faith effort, but I share the feelings that have been expressed here that this situation has all the earmarks of a publicity stunt.

My office in Boston has been trying to help an elderly woman who had arranged to obtain a passport on an emergency basis to visit a relative in the Middle East. She drove 50 miles from New Hampshire to Boston to get the passport. But the passport office in Boston was closed this morning.

It was closed here in Washington as well.

Real people are being hurt. I am very hopeful that we are not going to go through this kind of a charade again in mid-December.

The PRESIDING OFFICER. Twenty seconds remain.

Mr. HATFIELD. Mr. President, I just want to point out again that it is absolutely necessary to pass this in order to give us the breathing time, in order to get back to the drawing board. December 15 will keep the continuity of our Government.

Mr. President, I have no time left. Both sides are out of time.

The PRESIDING OFFICER. All time has expired.

Mr. BAKER. Mr. President, could I inquire of the minority leader, is there a requirement for more time on this side? I am prepared to ask for more time.

Mr. ROBERT C. BYRD. Does anyone else wish to speak?

SEVERAL SENATORS. Vote.

Mr. BAKER. Mr. President, I ask unanimous consent that the minority leader be recognized for 2 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is recognized for 2 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, may I say that the conferees on both sides of the aisle worked hard and in good faith. I would not want anything I have said to be construed as applying to the conferees, and particularly those who led the fight, Senator HATFIELD and others on both sides. I think they fought hard for the resolution. They voted for the continuing resolution last night in good faith. They thought it was a good conference report. I understand there was a lot of consternation and a considerable amount of anger among Republican conferees when they heard that the President was going to veto the conference report after they had worked so diligently, so long, so patiently, and so dedicatedly in behalf of it.

Last night, I indicated I was inclined to support the conference report until I heard an argument on the part of a Senator or so across the aisle who were not conferees, but who said they were going to vote for it because the President was going to veto it.

Mr. PERCY has put his finger on one item when he says that he regrets the conference report last night did not go far enough on foreign assistance. I think that was probably one of the things that the President had against the conference report. I understand he wanted another \$1.5 billion for foreign assistance, and was willing to cut the domestic programs in order to get it, although he left that out of his speech this morning.

I thank the distinguished Senator from Illinois (Mr. PERCY) for stating that for the RECORD.

Mr. EAGLETON. The conference report on the first continuing resolution stated:

The conferees wish to stress that the continuing resolution maintains the current levels of participation for the Special Sup-

plemental Food Program, known as "WIC", and the Commodity Supplemental Food Program (CSFP). Any efforts to reduce funding allocations to the States, thereby affecting levels of participation, would be clearly contrary to the provisions of the joint resolution.

It is my understanding that under the new resolution these directives remain in effect. Is that correct?

Mr. HATFIELD. Yes; since we have only changed the operative date of the original resolution, all directives contained in the body of that resolution and in the joint explanatory statement of the committee of conference remain in force for the period of this resolution.

Mr. EAGLETON. There has been some suggestion that the first resolution may have funded the WIC program at only a rate of \$720 million a year which would cause massive reductions in caseload. Such an interpretation seems clearly at odds with both the requirements of the resolution that current participation levels be maintained and with the provisions of H.R. 4119 as passed by the House, which provided funds to maintain the September 1980 participation levels for WIC. Is it correct that the resolution we are considering here today provides funds for the WIC program at a rate necessary to maintain the current food packages for the participation levels in effect at the end of fiscal year 1981, the September participation levels, rather than at the sharply reduced rate of \$720 million?

Mr. HATFIELD. It is my understanding that the first resolution, Public Law 97-51, funded the activities of the Department of Agriculture under the levels provided in H.R. 4119, as passed by the House, or at the current rate, whichever was less. The House-passed version of H.R. 4119 provided \$1,069,000,000 for these programs which was more than what was necessary to maintain the September caseloads. It is clear that Public Law 97-51 required maintenance of the September 1981 participation levels for these programs.

Mr. EAGLETON. Is it correct that any action to delay allocations to States of WIC or CSFP funds that causes States to shut their programs down or cut their caseloads would be contrary to the resolution and to the requirement that participation levels be maintained?

Mr. HATFIELD. Yes, that is correct.

Mr. HAYAKAWA. Mr. President, the resolution which the House of Representatives has passed, and sent to this body for action, continues the functions of Government on a temporary basis presumably until Congress can submit to the President a long term resolution that is acceptable to him. We all know what the criteria are for such a resolution; all we need to do is agree that it must be done. The current legislation will allow the Congress to take a deep breath and begin again, with the knowledge that our

President is serious about the economic program we have embarked upon.

That is not to say that I support this kind of legislating. I voted in favor of the conference report to House Joint Resolution 357, not because I thought it was an acceptable product, but because I wanted the President to send the clearest message possible to the House of Representatives and the appropriations conferees that any funding measure which violated the economic recovery program requirements would not be tolerated. He sent that message when he vetoed the resolution.

I will vote for the resolution currently before us because the Government must continue, but we must come to grips with the longer term problem of reducing spending. I hope that this short term resolution will give all parties involved a time to reassess the situation and present both the Congress and the President with a responsible measure.

Mr. HATFIELD. Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a table illustrating the funding levels provided under House Joint Resolution 368, which is the extension of the existing continuing resolution; those provided under House Joint Resolution 357, the continuing resolution passed by the Senate Friday morning; and those provided in the conference agreement on House Joint Resolution 357, which was vetoed by the President early this morning.

In asking that this table be printed I am not seeking to prolong the debate on outlay estimates. That issue will need to be resolved, and I have every expectation it will be, but at this time my only interest is to inform Members as to the various differences in budget authority available under the continuing resolution which we are today extending to December 15.

Another point that has been raised in the discussion does need further elaboration. It has been stated several times that the level of \$428.4 billion in budget authority provided in the Senate-passed version of House Joint Resolution 357 was a level acceptable to the President, and an amount in excess of that level would not be signed.

I want to stress, Mr. President, that the level of \$428.4 billion is a target only for House Joint Resolution 357, and should not be construed as a ceiling on spending for the entire fiscal year under regular appropriations bills. Our only ceiling at this time is our allocation under the first concurrent budget resolution, which is \$464 billion. So I hope that Members will not be under the misapprehension that individual appropriations bills for fiscal year 1982 will have to meet the levels specified in this table, individually or in total.

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

	Public Law 97-51	Senate-passed H.J. Res. 357	Conference agreement H.J. Res. 357		Public Law 97-51	Senate-passed H.J. Res. 357	Conference agreement H.J. Res. 357
Agriculture.....	\$21,599,839,000	\$22,709,991,000	\$22,665,171,000	Interior.....	7,492,450,000	7,257,976,000	7,392,500,000
Commerce.....	8,148,071,000	8,519,831,000	8,564,373,000	L-HHS.....	83,917,472,000	82,470,479,000	83,176,742,000
Defense.....	171,654,869,000	196,712,002,000	196,712,002,000	Military Construction.....	5,331,142,000	6,746,792,000	6,216,315,000
District of Columbia.....	490,737,600	557,170,000	546,027,000	Transportation.....	10,327,506,439	10,348,437,000	10,407,138,000
Energy and Water.....	11,648,017,000	12,463,930,000	12,222,585,000	Treasury.....	9,735,903,000	9,339,134,000	9,624,191,000
Foreign operations.....	9,575,404,871	11,430,624,000	10,075,405,000	Total.....	400,611,382,110	428,465,319,000	427,875,510,000
HUD.....	60,698,970,200	59,908,953,000	60,313,060,000				

Mr. MITCHELL. Mr. President, this morning, I sent word to the White House of a replacement nomination for a Maine delegate to the upcoming White House Conference on Aging. I was told that the White House office which handles these nominations could not do it because "no one is there."

I understand the President's desire to dramatize his budget priorities. But this is taking the Washington Monument ploy to new heights.

The Washington Monument ploy is the well-known executive branch game where a threat is made to shut down the venerable monument if a nickel is taken from the Park Service budget. The Congress has come to recognize and discount symptoms of this phony exercise over the past several years. I had hoped we might have moved beyond the need to play such irresponsible games.

But instead we are now faced with an allegedly unstaffed White House because Congress has failed to take \$1.3 billion from domestic programs and put it into foreign aid, or because Congress has spent \$400 million too much, or because Congress has spent \$1.3 billion too much, or because some other figure is not to the President's personal liking. The figures are in dispute; their allocation is in dispute, and it seems that the White House cannot stick to one preference long enough for anyone to work out exactly what Congress should do to avoid a veto. What is all this designed to prove?

Does it have anything whatever to do with economic problems or program needs or fiscal planning?

What will a \$400 million or even a \$1 billion cut now do to the \$80 billion deficit we will have next September?

The President's veto of the continuing resolution needed to keep the Government operating has taken the budget question out of the realm of political debate and economic debate and straight into the sphere of political theater.

The latest act in this play has the entire nondefense Federal work force being furloughed because of a money difference that is less than one-half of 1 percent of the entire spending resolution.

The lost man-hours and wasted time in this manufactured crisis may well cost as much in the long term as these disputed savings numbers.

From an administration whose latest figures give us a deficit of \$80 billion this year and well over \$100 billion in the following years, this farcical public concern about big spending is difficult to take seriously.

The President has been on national television announcing that this resolution will cause economic disaster unless it is stopped. That is political melodrama of the least defensible kind.

What the President did not mention on national television was that he has been demanding that \$1 billion more be cut from domestic programs, not to save money, but to give foreign aid. This is not just a matter of spending levels, whatever the disputed figure may finally be. It is a matter of spending priorities: The President's priorities demand \$1 billion more for foreign aid. Congress disagrees.

If the President really believes foreign aid should be increased by \$1 billion, let him say so directly. Let us debate it. That is the way policies and priorities are set in democratic societies. If he believes that domestic programs can be cut further, let him say where, precisely, those cuts should be made. The Nation is used to hearing pleasant-sounding generalities from the White House. It is used to hearing generalized scorn thrown at the last 35 years of economic policy. It is becoming adjusted to generalized predictions of economic disaster unless further spending cuts are made.

It is time for more detail and less theater from the White House. It is time the President explained why he thinks the last 35 years, which saw working people's incomes and living standards rise dramatically, are such a disaster that they demand a governmental counterrevolution. It is time he made clear just how a \$3 trillion national economy will be affected if \$1.3 billion is spent on domestic program rather than on foreign aid.

The simple fact of the matter is that this entire exercise in all-night congressional sessions, dramatic televised veto threats, and hurried emergency Cabinet sessions has been caused by nothing more than a desire to score some political points and deflect critical examination of what is actually happening to our economy.

On Sunday evening, the Republican leadership brought to the Senate a conference report which it endorsed—and which was put together with the help of Mr. Stockman and other White House aides—and denounced it as being too costly and deserving of a veto. So the vast majority of Republican Senators proceeded to vote for this too-costly bill, just as the President could veto it. What is that but pure and total political fraud?

I understand the exercise was based on a desire to let the President demonstrate his political strength by vetoing the bill and having his veto upheld. I have nothing against the President displaying his political strength anyway he sees fit. But to place Government in turmoil, to waste money on a fake close-down exercise, and to needlessly upset the families of Federal workers whose job status is thrown into doubt is to ask the entire country to pay for the political muscle flexing.

The sad fact is that no amount of muscle flexing will alter the reality. And reality has caught up with the unrealistic economic projections of the Reagan economic plan. Reality has brought us high interest rates, the worst housing situation since the Second World War, potential disaster to our auto industry, and the highest rate of small business bankruptcies in a decade. The reality is that inflation cannot be subdued without economic pain. And the further reality is that the Reagan economic plan makes the working people and the small enterprises of this country carry that pain.

It does not surprise me that the President wants to avoid any share of the responsibility for this outcome. What is surprising is that the Republican leadership of the Senate has so supinely gone along with this desire.

We could, far more sensibly, have simply extended the present continuing resolution further, without these theatrical

displays, and avoided the entire scenario where Government work time is lost and confusion ensues for people in State and local governments and individuals who use Government programs. That would have been the sensible and right thing to do. We could have taken that action on Sunday night, and all of today's theatrics would have been unnecessary.

Instead, we have a situation in which the Congress will be attacked for failing to meet a constantly changing White House spending figure. The President will attack the Congress for failing to cut spending by a sum he has agreed not to request. He will attack Congress for not holding the line, while behind the scenes he argues for \$1 billion more for foreign aid. He will blame Congress for high interest rates, rising unemployment, and economic recession. And he will dislocate the entire Federal Government in order to play out this charade.

We know we will enact a spending bill to keep Government operating. The President knows it too. And I would judge that most Americans know it as well.

So what does this exercise gain? Apart from short-term political points, not much. What damage it does is another thing entirely.

A democratic society demands cooperation, compromise, consensus, and care in its governance. When comity between the branches of Government breaks down, when political rhetoric takes precedence over governance, the trust and confidence that people have in Government is eroded. It matters not if the short-term blame is placed on one or another political party or one or another Government institution. What matters is that the overall public trust is breached a little more, civil debate is lessened, and respect for Government is eroded. And that damage affects all of us, sooner or later, regardless of our political party, our philosophic preferences, or our economic projections.

It is regrettable that the President felt he could appeal to Americans in no other way than to engage in a manufactured crisis.

Mr. BAKER. Vote!

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution (H.J. Res. 368) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, "Shall the joint resolution pass?"

Mr. BAKER. Mr. President, I ask for the yeas and nays on passage.

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

The joint resolution having been read the third time, the question is, "Shall the joint resolution pass?" The yeas and nays have been ordered and the clerk will call the roll.

Mr. BAKER. There will be no more rollcall votes tonight, Mr. President.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr.

GOLDWATER) and the Senator from Texas (Mr. TOWER) are necessarily absent.

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

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI) 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 Oklahoma (Mr. BOREN) and the Senator from Montana (Mr. MELCHER) would each vote "yea."

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

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 426 Leg.]

YEAS—88

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

NAYS—1

Cranston

NOT VOTING—11

Bentsen	Chiles	Leahy
Biden	DeConcini	Melcher
Boren	Durenberger	Tower
Bumpers	Goldwater	

The joint resolution (H.J. Res. 368) was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution passed.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I want to take this opportunity to once again thank and commend the distinguished chairman of the Appropriations Committee, Senator HATFIELD, for the tireless and professional resolve which he exhibited throughout the last long, long week.

Senator HATFIELD has been a fixture of determination and intellectual insight; the Senate Appropriations Committee

reported and managed a bill that was acceptable to the President. Unfortunately the conference report did not reflect the exact terms of the bill. It was not the fault of the Senate conferees; in order to get the agreement the Senate conferees had to give up more than the President was willing to accept.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend past 5:45 p.m., in which Senators may speak.

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

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

The PRESIDING OFFICER. The Senate will be in order.

ADJOURNMENT OF THE TWO HOUSES OVER THE THANKSGIVING HOLIDAY—HOUSE CONCURRENT RESOLUTION 228

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Concurrent Resolution 228.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 228, which will be stated.

The legislative clerk read as follows:

H. CON. RES. 228

Resolved by the House of Representatives (the Senate concurring). That when the House adjourns on Monday, November 23, 1981, and that when the Senate adjourns on Tuesday, November 24, 1981, or on Wednesday, November 25, 1981, pursuant to a motion made by the Majority Leader in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Monday, November 30, 1981.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 228) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, as I announced a moment ago, there will be no more record votes today.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

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

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I do not anticipate record votes tomorrow.

There will be a further announcement later this afternoon on other items of

business that we may be able to transact today or tomorrow, but at this moment, that is all I have.

The PRESIDING OFFICER. Is there further morning business?

NATIONAL ADOPTION WEEK

Mr. DENTON. Mr. President, I am particularly pleased to call the Senate's attention to the fact that this week is National Adoption Week.

Adoption of the homeless young is an ancient custom. Yet, even in this compassionate Republic, which by international judgment has made at least a reasonable effort to deserve the title, "One Nation Under God," we have permitted obstacles undermining the custom of adoption. With millions of homeless or grossly neglected, unloved children, there were only 150,000 adoptions last year in the United States.

The majority of children adopted are healthy infants—white infants. This narrow classification of adoptees should be broadened, but even couples seeking to adopt in this classification have experienced long, frustrating delays and difficulties because many of those who traditionally placed their offspring for adoption are no longer choosing that option.

According to the latest calculations, no more than 4 percent of unmarried teenagers who give birth are choosing an adoption plan for their babies. Some estimate that there has been over a 50-percent decline in the number of these adoptions between 1970 and 1980. Moreover, the legalization of abortion has dramatically decreased the number of adolescents who give birth to the babies they have conceived. In 1979, nearly twice as many babies were destroyed in the womb as were carried to term by teenagers.

Unfortunately, many young pregnant girls do not know the positive aspects of adoption for a child. Many do not know that their babies can have an intact and loving family that can often provide a more secure and brighter future. Legislation I introduced and which has been signed into law—the Adolescent Family Life Act—seeks to reverse this regrettable trend in which our youth become parents before they become adults.

The program funded by the act will encourage voluntary adoption with discreteness and confidentiality afforded to the girls and their families who have been faced with an unintended or unplanned pregnancy as a constructive means of creating new families.

There is another group of children who are in need of the benefits of adoption into the security of a permanent home. This group is comprised of so-called "special needs" children—those who are older, or who are handicapped, or who are from minority groups. For these special children, there are few prospective adoptive families and large numbers of waiting children, including more than half of those currently estimated to be in the foster care system.

The Subcommittee on Aging, Family, and Human Services, which I chair, conducted a hearing earlier this year on adoption practices. The hearings was an effort to identify means of facilitating

the adoption process for both infant and special needs children by providing incentives and removing disincentives.

Among others at that hearing, we were privileged to hear from Father George Clements, of the Holy Angels Church in Chicago, Ill. Father Clements initiated a campaign entitled, "One Church—One Child," in an attempt to increase the number of potential black parents who would be interested in special needs adoption. He believes that one of the largest barriers to minority adoptions has been the attitude of government that such adoptions are the responsibility of government rather than that of minority communities.

Over 150 parishioners attended his meeting where slides were shown of 21 black children who needed adoptive parents. At the end of the meeting, 17 families made known their intentions to adopt, and 3 of these families eventually did adopt black children. Of the 21 children featured that evening, 11 have since been placed for adoption.

Father Clements is telling it like it is, and black people are proving that they will respond to the beauty of truth. Our Government should stimulate this kind of voluntarism.

Another area in which government can provide leadership for compassionate individual initiative is the granting of preference for immigration to children illegitimately fathered overseas by Americans. Presently, that area is a travesty and its improvement is the subject of a bill, S. 1698, which I have introduced jointly with Senators LEVIN, LAXALT, HAYAKAWA, and DECONCINI. The bill amends the Immigration and Nationality Act to provide preferential treatment to children of U.S. Armed Forces personnel in Asia.

This Amerasian children's bill could foster adoptions in the United States, and as we refine it at the committee level, I would encourage my colleagues to contribute to its improvement. The problem is real and this Nation has a responsibility to find ways to bring these children home.

I know that every Senator joins me today in congratulating the many fine organizations that work so hard to appropriately place adoptable children into loving families. I am certain that this Congress will continue in its bipartisan efforts to insure good adoption practices in the United States.

During this Thanksgiving season, so many of us across this country look forward to giving thanks for our great blessings and spending time with our families and loved ones. At this especially propitious moment, I urge my esteemed colleagues to be mindful of the positive, family-building and loving option that adoption is: Providing children with the advantages and joys of family life. I urge them to act in pursuance of that concept.

UNION STATION COMPLETION ACT OF 1981

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1192.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1192) to amend the National Visitor Center Facilities Act of 1968 to provide for the rehabilitation and completion of Union Station in Washington, District of Columbia, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, 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 1, strike "Completion", and insert "Redevelopment";

On page 3, line 4, after "in", insert "the";

On page 3, line 5, after "Station", insert "complex";

On page 3, line 6, strike "and";

On page 3, after line 6, insert the following:

(6) the Union Station complex and its vicinity present an opportunity for successful commercial development integrated with the transportation functions of the facility; and

On page 3, line 11, strike "(6)", and insert "(7)";

On page 3, line 12, strike "restored", and insert "improved";

On page 3, line 16, strike "Section 101", and insert "Title I";

On page 3, strike line 19, through and including page 14, line 15, and insert the following:

(1) by striking "National Visitor Center" in the caption of title I and inserting in lieu thereof "Union Station";

(2) by inserting a new caption "Subtitle A—National Visitor Center" immediately after the new title I caption; and

(3) by adding at the end of title I the following new subtitle:

"Subtitle B—Union Station Redevelopment
"Sec. 111. (a) Upon the request of the Secretary of Transportation, the Secretary shall assign to the Secretary of Transportation all of the Secretary's right, title, and interest in the Union Station complex, including all agreements and leases entered into under subtitle A of this title. Such assignment may reserve to the Secretary the right to lease space for visitor services, to the extent the Secretary and the Secretary of Transportation may agree. For purposes of this title, the "Union Station complex" shall include all the real property, air rights, and improvements leased by the Secretary under subtitle A of this title, together with any property acquired and all improvements made in accordance with this subtitle.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall, not later than twelve months after the date of enactment of this subsection, complete the installation of new roofs and associated drainage systems on all existing roof surfaces of the historic Union Station building. Of funds appropriated to the Secretary under the construction appropriation for the National Park System for the fiscal year ending September 30, 1982, not less than \$8,100,000 shall be available to and allocated by the Secretary for such roof work. In the event the assignment provided for in subsection (a) of this section occurs prior to completion of such roof work, the Secretary shall continue to be responsible for such roof work until its completion, except as the Secretary and the Secretary of Transportation may otherwise agree.

"(c) Prior to the assignment provided for in subsection (a) of this section, the Secretary shall permit the Secretary of Transportation to carry out or cause to be carried out

the activities authorized by this subtitle or by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.).

"(d) After both the assignment provided for in subsection (a) of this section and the completion of the roof installation required by subsection (b) of this section, the Secretary shall be relieved of the authority and obligation under subtitle A of this title to construct and operate a National Visitor Center at Union Station. The provisions of subtitle A of this title shall thereafter be deemed superseded by any contrary or inconsistent provisions of subtitle B of this title.

"Sec. 112. The Secretary of Transportation shall provide for the rehabilitation and redevelopment of the Union Station complex primarily as a multiple-use transportation terminal serving the Nation's Capital, and secondarily as a commercial complex, in accordance with the following goals:

"(a) Preservation of the exterior facade and other historically and architecturally significant features of the Union Station building;

"(b) Restoration and operation of a portion of the historic Union Station building as a rail passenger station, together with holding facilities for charter, transit, and intercity buses in the Union Station complex;

"(c) Commercial development of the Union Station complex that will, to the extent possible, financially support the continued operation and maintenance of such complex; and

"(d) Withdrawal by the Federal Government from any active role in the operation and management of the Union Station complex as soon as practical and at the least possible Federal expense consistent with the goals set forth in subsections (a) through (c) of this section.

"Sec. 113. (a) There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to meet lease and other obligations, including maintenance requirements, incurred by the Secretary and assigned to the Secretary of Transportation under this subtitle. The Secretary shall transfer to the Secretary of Transportation at the time of such assignment such sums as may have been appropriated to the Secretary to meet such obligations and not yet expended as of the date of such assignment.

"(b) Notwithstanding the provisions of section 102(a)(5) of this title, the Secretary of Transportation is authorized to purchase for the United States any property that was leased by the Secretary under subtitle A of this title and assigned to the Secretary of Transportation under this subtitle. The purchase agreement for such property may provide for payment by the Secretary of Transportation over a term not to exceed six years. There are authorized to be appropriated to the Secretary of Transportation, in addition to the sum authorized by subsection (a) of this section, not to exceed \$275,000 per year for not to exceed six years to carry out such purchase. Such purchase shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651 et seq.).

"Sec. 114. (a) The Secretary of Transportation shall, on an emergency basis, carry out an engineering survey of all existing structures at the Union Station complex for the following purposes:

"(1) to determine those actions necessary or desirable to preserve the long-term structural integrity of, and provide functional utility systems for, the historic Union Station building;

"(2) in cooperation with Amtrak, to determine those actions necessary or desirable to restore rail passenger handling functions to

the historic Union Station building and otherwise improve rail passenger service facilities at Union Station, including improved passenger access to the trains; and

"(3) to prepare detailed estimates of the costs of such rehabilitation and improvement.

"(b) Concurrently with the engineering survey required by subsection (a) of this section, the Secretary of Transportation shall carry out a planning and market feasibility study to assess the commercial development potential of the Union Station complex. Such study shall also include, but not be limited to, an assessment of the feasibility and desirability of:

"(1) providing passenger transportation services from Union Station to the commercial airports in the area;

"(2) constructing a heliport at or near the Union Station complex; and

"(3) relocating to office space in Union Station the offices of Federal or other public transportation agencies.

"(c) The Secretary of Transportation shall complete the engineering survey required by this section not later than six months after the date of enactment of this section, and shall complete the planning and market feasibility study required by this section not later than twelve months after the date of enactment of this section.

"(d) Of amounts appropriated under section 704(a) (1) and (2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a) (1) and (2)), \$1,000,000 shall be available to and be utilized by the Secretary of Transportation to carry out the purposes of subsections (a) and (b) of this section.

"(e) Within twelve months following the date of enactment of this section, the Secretary of Transportation shall submit a report to the Congress on the results of the engineering survey and planning and market feasibility studies carried out under this section. Such report shall include a specific commitment of Federal funds for completion of the rehabilitation of the historic Union Station building, together with any necessary request for appropriations, in the amount determined by the Secretary of Transportation to be necessary in light of the survey and studies carried out under this section, from either or both of the following sources:

"(1) funds authorized to be appropriated and not yet appropriated under section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) that are in excess of the amounts set out in the last sentence of such section 704(a); and

"(2) funds programed or reprogramed from any other appropriation available to the Secretary of Transportation.

"Sec. 115. (a) In order to achieve the goals set out in section 112 of this subtitle, the Secretary of Transportation is authorized to select and subsequently enter into one or more agreements (hereafter in this Act referred to as 'development agreements') with one or more responsible individuals, corporations, or other private entities with demonstrated experience in the financing, undertaking, and managing of commercial real estate development (hereafter in this Act referred to as 'developers').

"(b) The Secretary of Transportation shall prescribe the procedures and criteria for selection of a developer for the Union Station complex: *Provided*, That no final developer selection shall be made unless and until at least two developers meeting minimum criteria prescribed by the Secretary of Transportation have submitted to the Secretary of Transportation specific design and financing proposals for the rehabilitation and redevelopment of the Union Station complex, and specific proposals for the ac-

quisition, conveyance, or lease of real property. The Secretary of Transportation is directed to initiate discussions with potential developers as soon as possible following enactment of this section to assure the earliest possible selection of a developer or developers.

"(c) Development agreements entered into under this section shall be considered cooperative agreements for purposes of the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.). With respect to such development agreements, the Secretary of Transportation is authorized to modify or waive the application of regulations otherwise applicable to Federal or Department of Transportation financial assistance agreements, to the extent the Secretary of Transportation determines in his discretion to be necessary to accomplish the purposes of this subtitle at the lowest cost to the Federal Government.

"(d) The Secretary of Transportation is further authorized to enter into such other agreements and contracts, except any agreement or contract to sell property rights at the Union Station complex, with such persons, corporations, financial institutions, Federal, regional, or local agencies, or the Architect of the Capitol as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle. Any such agreement may be made assignable to a selected developer or developers of the Union Station complex.

"Sec. 116. (a) (1) The Secretary of Transportation is authorized to acquire for the United States, by lease, purchase, or otherwise, any interest in real property (including, without limitation, interests in the nature of easements or reservations) and any other property interest (including, without limitation, contract rights) in or relating or adjacent to the Union Station complex that the Secretary of Transportation deems necessary to carry out the purposes of this subtitle.

"(2) If the Secretary of Transportation determines that property under the jurisdiction of the Architect of the Capitol in squares 721 and 722 eastward of the historic Union Station building is necessary to carry out the purposes of this subtitle, the Secretary of Transportation may request assignment of such property to the use of the Secretary of Transportation, as a part of the Union Station complex, and subject to the provisions of this subtitle, and the Architect of the Capitol shall so assign such property.

"(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized to maintain, use, operate, manage, and lease, either directly, by contract, or through development agreements, any property interest held or acquired by the Secretary of Transportation for the United States under this subtitle, in such manner and subject to such terms, conditions, covenants, and easements as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle.

"Sec. 117. (a) The Secretary of Transportation is authorized to use income and proceeds received from activities authorized by this subtitle, including, without limitation, operating and leasing income and payments made to the Federal Government under development agreements, to pay expenses incurred by the Secretary of Transportation in carrying out the purposes of this subtitle, including, without limitation, construction, acquisition, leasing, operation, and maintenance expenses, and payments made to developers under development agreements.

"(b) A special deposit account is hereby established in the Treasury of the United States, to be known as the Union Station Fund, which shall be administered as a revolving fund. Such special deposit account shall be credited with receipts of the Secretary of Transportation from activities au-

thorized by this subtitle and the balance in such special deposit account shall be available in such amounts as are specified in annual appropriation Acts for making expenditures authorized by this subtitle.

"Sec. 118. (a) Notwithstanding any other provision of title 23, United States Code, and other Acts pertaining to Federal-Aid Highways, the Secretary of Transportation shall immediately approve the completion of the parking facility, and associated ramps (including any necessary pedestrian access and walkways, escalators, elevators, moving sidewalk access, and connections) at Union Station, to be financed with interstate highway funds apportioned to the District of Columbia. To the extent necessary to complete such project, such apportionment shall not be subject to any obligation limitation enacted for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983. The amount of such apportionment necessary to complete such project, not to exceed \$40,000,000, shall remain available to the District of Columbia until expended, without regard to the provisions of section 118(b) of title 23, United States Code. The Federal share shall be 100 per centum of the total cost of such project.

"(b) Within sixty days of the enactment of this section, the Secretary of Transportation shall enter into an agreement with the District of Columbia's Department of Transportation for the Secretary of Transportation's administration of the project described in subsection (a) of this section. Such project agreement shall provide that all right, title, and interest in such parking facility shall remain in the United States. The rate of fees charged for use of the parking facility may exceed the rate required for maintenance and operation of the facility, and shall be established in a manner that encourages its use by rail passengers and participants in activities in the Union Station complex and area.

"Sec. 119. (a) The Secretary of Transportation is authorized, on such terms and conditions as he may prescribe, to release the Washington Terminal Company from any or all of its obligations under agreements and leases entered into under subtitle A of this title, including, without limitation, the obligation to construct a new railroad passenger station as provided in section 102(a)(4) of this title.

"(b) The Secretary of Transportation shall waive such statutory or contractual restrictions on the use of the parking structure and associated ramps described in section 118 of this subtitle as would otherwise be required or imposed because funds for such construction were or are provided under the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

"(c) The Secretary of Transportation is authorized to use funds appropriated under section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out the purposes of this subtitle without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B)). Funds appropriated under section 704(a) of such Act may not be used for design, construction, or operation of a heliport at or near Union Station.

"(d) The Architect of the Capitol is authorized to enter into agreements with the Secretary of Transportation or his designee or assign to furnish steam or chilled water or both from the Capitol Power Plant to the Union Station complex, at no expense to the legislative branch."

Sec. 4. (a) The Act approved November 5, 1966 (Public Law 89-759) and section 108 of the National Visitor Facilities Act of 1968 (Public Law 90-264) are repealed.

(b) Section 102(b) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802

(b) is amended by striking the word "title" and inserting in lieu thereof the word "sub-title".

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 this Act may be cited as the "Union Station Redevelopment Act of 1981".

Sec. 2. The Congress finds and declares that—

(1) Union Station in Washington, District of Columbia, commissioned by Congress in 1903, designed by Daniel H. Burnham in monumental Beaux Arts style, and completed by the Washington Terminal Company in 1907, is an important historic and architectural landmark of the Nation's Capital;

(2) Union Station was built and used exclusively as a rail passenger station until Congress decided to make the historic Union Station building a National Visitor Center in 1963, allocating rail passenger operations to a replacement facility behind the historic building;

(3) the use of rail passenger service to and from Washington, District of Columbia, declining when the National Visitor Center Facilities Act of 1968 was enacted, has dramatically increased since that time with the advent of and substantial Federal investment in the National Railroad Passenger Corporation and the northeast corridor improvement project, justifying a reversal of the policy adopted 13 years ago;

(4) the historic Union Station building is now unsafe and unusable, and the replacement railroad station is inconvenient and inadequate for present and projected rail ridership demand;

(5) it is in the national interest to preserve the architectural features of Union Station and to provide in the Union Station complex a sound and fully operational transportation terminal;

(6) the Union Station complex and its vicinity present an opportunity for successful commercial development integrated with the transportation functions of the facility; and

(7) the purposes of this Act are to achieve the goals of historic preservation and improved rail use of Union Station with maximum reliance on the private sector and minimum requirement for Federal assistance.

Sec. 3. Title I of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801 et seq.) is amended—

(1) by striking "National Visitor Center" in the caption of title I and inserting in lieu thereof "Union Station";

(2) by inserting a new caption "Subtitle A—National Visitor Center" immediately after the new title I caption; and

(3) by adding at the end of title I the following new subtitle:

"Subtitle B—Union Station Redevelopment

"Sec. 111. (a) Upon the request of the Secretary of Transportation, the Secretary shall assign to the Secretary of Transportation all of the Secretary's right, title, and interest in the Union Station complex, including all agreements and leases entered into under subtitle A of this title. Such assignment may reserve to the Secretary the right to lease space for visitor services, to the extent the Secretary and the Secretary of Transportation may agree. For purposes of this title, the 'Union Station complex' shall include all the real property, air rights, and improvements leased by the Secretary under subtitle A of this title, together with any property acquired and all improvements made in accordance with this subtitle.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall, not later than twelve months after the date of enactment of this subsection,

complete the installation of new roofs and associated drainage systems on all existing roof surfaces of the historic Union Station building. Of funds appropriated to the Secretary under the construction appropriation for the National Park System for the fiscal year ending September 30, 1982, not less than \$8,100,000 shall be available to and allocated by the Secretary for such roof work. In the event the assignment provided for in subsection (a) of this section occurs prior to completion of such roof work, the Secretary shall continue to be responsible for such roof work until its completion, except as the Secretary and the Secretary of Transportation may otherwise agree.

"(c) Prior to the assignment provided for in subsection (a) of this section, the Secretary shall permit the Secretary of Transportation to carry out or cause to be carried out the activities authorized by this subtitle or by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (46 U.S.C. 851 et seq.)

"(d) After both the assignment provided for in subsection (a) of this section and the completion of the roof installation required by subsection (b) of this section, the Secretary shall be relieved of the authority and obligation under subtitle A of this title to construct and operate a National Visitor Center at Union Station. The provisions of subtitle A of this title shall thereafter be deemed superseded by any contrary or inconsistent provisions of subtitle B of this title.

"Sec. 112. The Secretary of Transportation shall provide for the rehabilitation and redevelopment of the Union Station complex primarily as a multiple-use transportation terminal serving the Nation's Capital, and secondarily as a commercial complex, in accordance with the following goals:

"(a) Preservation of the exterior facade and other historically and architecturally significant features of the Union Station building;

"(b) Restoration and operation of a portion of the historic Union Station building as a rail passenger station, together with holding facilities for charter, transit, and intercity buses in the Union Station complex;

"(c) Commercial development of the Union Station complex that will, to the extent possible, financially support the continued operation and maintenance of such complex; and

"(d) Withdrawal by the Federal Government from any active role in the operation and management of the Union Station complex as soon as practical and at the least possible Federal expense consistent with the goals set forth in subsections (a) through (c) of this section.

"Sec. 113. (a) There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to meet lease and other obligations, including maintenance requirements, incurred by the Secretary and assigned to the Secretary of Transportation under this subtitle. The Secretary shall transfer to the Secretary of Transportation at the time of such assignment such sums as may have been appropriated to the Secretary to meet such obligations and not yet expended as of the date of such assignment.

"(b) Notwithstanding the provisions of section 102(a)(5) of this title, the Secretary of Transportation is authorized to purchase for the United States any property that was leased by the Secretary under subtitle A of this title and assigned to the Secretary of Transportation under this subtitle. The purchase agreement for such property may provide for payment by the Secretary of Transportation over a term not to exceed six years. There are authorized to be appropriated to the Secretary of Transportation, in addition to the sums authorized by subsection (a) of this section, not to exceed

\$275,000 per year for not to exceed six years to carry out such purchase. Such purchase shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4351 et seq.).

"Sec. 114. (a) The Secretary of Transportation shall, on an emergency basis, carry out an engineering survey of all existing structures at the Union Station complex for the following purposes:

"(1) to determine those actions necessary or desirable to preserve the long-term structural integrity of, and provide functional utility systems for, the historic Union Station building.

"(2) in cooperation with Amtrak, to determine those actions necessary or desirable to restore rail passenger handling functions to the historic Union Station building and otherwise improve rail passenger service facilities at Union Station, including improved passenger access to the trains; and

"(3) to prepare detailed estimates of the costs of such rehabilitation and improvement.

"(b) Concurrently with the engineering survey required by subsection (a) of this section, the Secretary of Transportation shall carry out a planning and market feasibility study to assess the commercial development potential of the Union Station complex. Such study shall also include, but not be limited to, an assessment of the feasibility and desirability of:

"(1) providing passenger transportation services from Union Station to the commercial airports in the area;

"(2) constructing a heliport at or near the Union Station complex; and

"(3) relocating to office space in Union Station the offices of Federal or other public transportation agencies.

"(c) The Secretary of Transportation shall complete the engineering survey required by this section not later than six months after the date of enactment of this section, and shall complete the planning and market feasibility study required by this section not later than twelve months after the date of enactment of this section.

"(d) Of amounts appropriated under section 704(a)(1) and (2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1) and (2)), \$1,000,000 shall be available to and be utilized by the Secretary of Transportation to carry out the purposes of subsections (a) and (b) of this section.

"(e) Within twelve months following the date of enactment of this section, the Secretary of Transportation shall submit a report to the Congress on the results of the engineering survey and planning and market feasibility studies carried out under this section. Such report shall include a specific commitment of Federal funds for completion of the rehabilitation of the historic Union Station building, together with any necessary request for appropriations, in the amount determined by the Secretary of Transportation to be necessary in light of the survey and studies carried out under this section, from either or both of the following sources:

"(1) funds authorized to be appropriated and not yet appropriated under section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) that are in excess of the amounts set out in the last sentence of such section 704(a); and

"(2) funds programed or reprogramed from any other appropriation available to the Secretary of Transportation.

"Sec. 115. (a) In order to achieve the goals set out in section 112 of this subtitle, the Secretary of Transportation is authorized to select and subsequently enter into one or more agreements (hereafter in this Act referred to as 'development agreements') with

one or more responsible individuals, corporations, or other private entities with demonstrated experience in the financing, undertaking, and managing of commercial real estate development (hereafter in this Act referred to as 'developers').

"(b) The Secretary of Transportation shall prescribe the procedures and criteria for selection of a developer for the Union Station complex: *Provided*, That no final developer selection shall be made unless and until at least two developers meeting minimum criteria prescribed by the Secretary of Transportation have submitted to the Secretary of Transportation specific design and financing proposals for the rehabilitation and redevelopment of the Union Station complex, and specific proposals for the acquisition, conveyance, or lease of real property. The Secretary of Transportation is directed to initiate discussions with potential developers as soon as possible following enactment of this section to assure the earliest possible selection of a developer or developers.

"(c) Development agreements entered into under this section shall be considered cooperative agreements for purposes of the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.). With respect to such development agreements, the Secretary of Transportation is authorized to modify or waive the application of regulations otherwise applicable to Federal or Department of Transportation financial assistance agreements, to the extent the Secretary of Transportation determines in his discretion to be necessary to accomplish the purposes of this subtitle at the lowest cost to the Federal Government.

"(d) The Secretary of Transportation is further authorized to enter into such other agreements and contracts, except any agreement or contract to sell property rights at the Union Station complex, with such persons, corporations, financial institutions, Federal, regional, or local agencies, or the Architect of the Capitol as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle. Any such agreement may be made assignable to a selected developer or developers of the Union Station complex.

"Sec. 116. (a) (1) The Secretary of Transportation is authorized to acquire for the United States, by lease, purchase, or otherwise, any interest in real property (including, without limitation, interests in the nature of easements or reservations) and any other property interest (including, without limitation, contract rights) in or relating or adjacent to the Union Station complex that the Secretary of Transportation deems necessary to carry out the purposes of this subtitle.

"(2) If the Secretary of Transportation determines that property under the jurisdiction of the Architect of the Capitol in squares 721 and 722 eastward of the historic Union Station building is necessary to carry out the purposes of this subtitle, the Secretary of Transportation may request assignment of such property to the use of the Secretary of Transportation, as a part of the Union Station complex, and subject to the provisions of this subtitle, and the Architect of the Capitol shall so assign such property.

"(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized to maintain, use, operate, manage, and lease, either directly, by contract, or through development agreements, any property interest held or accrued by the Secretary of Transportation for the United States under this subtitle, in such manner and subject to such terms, conditions, covenants, and easements as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle.

"Sec. 117. (a) The Secretary of Transportation is authorized to use income and pro-

ceeds received from activities authorized by this subtitle, including, without limitation, operating and leasing income and payments made to the Federal Government under development agreements, to pay expenses incurred by the Secretary of Transportation in carrying out the purposes of this subtitle, including, without limitation, construction, acquisition, leasing, operation, and maintenance expenses, and payments made to developers under development agreements.

"(b) A special deposit account is hereby established in the Treasury of the United States, to be known as the Union Station Fund, which shall be administered as a revolving fund. Such special deposit account shall be credited with receipts of the Secretary of Transportation from activities authorized by this subtitle and the balance in such special deposit account shall be available in such amounts as are specified in annual appropriation Acts for making expenditures authorized by this subtitle.

"Sec. 118. (a) Notwithstanding any other provision of title 23, United States Code, and other Acts pertaining to Federal-Aid Highways, the Secretary of Transportation shall immediately approve the completion of the parking facility, and associated ramps (including any necessary pedestrian access and walkways, escalators, elevators, moving sidewalk access, and connections) at Union Station, to be financed with interstate highway funds apportioned to the District of Columbia. To the extent necessary to complete such project, such apportionment shall not be subject to any obligation limitation enacted for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983. The amount of such apportionment necessary to complete such project, not to exceed \$40,000,000, shall remain available to the District of Columbia until expended, without regard to the provisions of section 118(b) of title 23, United States Code. The Federal share shall be 100 per centum of the total cost of such project.

"(b) Within sixty days of the enactment of this section, the Secretary of Transportation shall enter into an agreement with the District of Columbia's Department of Transportation for the Secretary of Transportation's administration of the project described in subsection (a) of this section. Such project agreement shall provide that all right, title, and interest in such parking facility shall remain in the United States. The rate of fees charged for use of the parking facility may exceed the rate required for maintenance and operation of the facility, and shall be established in a manner that encourages its use by rail passengers and participants in activities in the Union Station complex and area.

"Sec. 119. (a) The Secretary of Transportation is authorized, on such terms and conditions as he may prescribe, to release the Washington Terminal Company from any or all of its obligations under agreements and leases entered into under subtitle A of this title, including without limitation, the obligation to construct a new railroad passenger station as provided in section 102(a)(4) of this title.

"(b) The Secretary of Transportation shall waive such statutory or contractual restrictions on the use of the parking structure and associated ramps described in section 118 of this subtitle as would otherwise be required or imposed because funds for such construction were or are provided under the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

"(c) The Secretary of Transportation is authorized to use funds appropriated under section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out the purposes of this subtitle without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B)).

Funds appropriated under section 704(a) of such Act may not be used for design, construction, or operation of a heliport at or near Union Station.

"(d) The Architect of the Capitol is authorized to enter into agreements with the Secretary of Transportation or his designee or assign to furnish steam or chilled water or both from the Capitol Power Plant to the Union Station complex, at no expense to the legislative branch."

Sec. 4. (a) The Act approved November 5, 1966 (Public Law 89-759) and section 108 of the National Visitor Facilities Act of 1968 (Public Law 90-264) are repealed.

(b) Section 102(b) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802(b)) is amended by striking the word "title" and inserting in lieu thereof the word "subtitle".

Mr. GORTON. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they may be further amended.

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

UP AMENDMENT NO. 712

(Purpose: to clarify the intent of the bill)

Mr. GORTON. Mr. President, on behalf of myself and the Senator from New York (Mr. MOYNIHAN), I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 712.

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

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

The amendment is as follows:

On page 19, line 9, insert "in cooperation with the National Railroad Passenger Corporation," after "Secretary of Transportation".

Page 21, after line 3, insert the following new sentence:

"Notwithstanding any other provision of this subsection, no funds from the Northeast Corridor Improvement Project and other rail or rail-related programs in excess of \$29,000,000 shall be available for the completion of the rehabilitation of the historic Union Station building or other purposes determined by the Secretary of Transportation to be necessary in light of the survey and studies carried out under this section if within 90 calendar days of continuous session of the Congress after any request for such excess funds either the Committee on Energy and Commerce of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate disapproves of the availability of such excess funds for such purposes by majority vote. For purposes of this subsection, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period described in this subsection."

Page 20, after "section," on line 13, insert the following:

"Such report shall be referred to the Committees on Commerce, Science and Transportation and Environment and Public Works of the Senate and the Committees on Energy and Commerce and Public Works and Transportation of the House, respectively."

On page 27, insert the following immediately after line 7:

"Sec. 5. As used in section 502(a)(1)(B) of the Rail Passenger Service Act, the term 'Amtrak Commuter' shall mean, with respect to the period prior to January 1, 1983, 'Con-rail'."

Mr. GORTON. Mr. President, I think it appropriate, before voting on the amendment, to discuss the bill with the distinguished Senator from New York.

I urge the Senate's approval of this bill, which will bring back to life one of this city's finest architectural creations. The bill is designed to revive Union Station as a major railroad terminal, as well as a new and lively commercial center.

I was not a Member of the Congress during years of the decline and fall of Union Station. But I have toured that shuttered building. I have seen the mushrooms growing in the floor, the water damage, the sad state into which this great building has fallen.

And I believe I also can see the opportunity for this structure: to resuscitate it as the southern terminus of the Northeast corridor railroad project, and to develop its significant commercial potential at the city's transportation hub, close to Capitol Hill.

Specifically, the bill:

Shifts responsibility for the project to the Department of Transportation from the Department of the Interior.

Authorizes a 1-year, \$1,000,000 study of the building's structural integrity, rail passenger handling functions, and its potential for privately financed commercial development and use.

Directs the Department of Transportation, once the study is completed, to spend already authorized, but unappropriated, Northeast corridor rail improvement funds, or to reprogram other authorized funds, for necessary building repairs and improvements.

Authorizes the Department of Transportation to select a private developer, through a competitive process, and to enter into a cooperative development agreement, with minimum Federal financing, for the commercial development of the building under long-term leases.

Requires that rail passenger services be returned to the main Union Station building.

Authorizes completion of the parking garage and ramps, using up to \$40 million in Interstate Highway moneys apportioned to the District of Columbia.

I want to emphasize my view that rail service must be given primary attention under this bill. That is clear in the language of the bill.

Since Congress, in 1968, determined that Union Station would become a National Visitor Center, with only incidental accommodations for rail passenger service, rail patronage of Union Station has increased more than tenfold. Rail passengers must now walk around to the back of the building to gain access to the train facility. Congress can no longer tolerate this situation. The concept of a National Visitor Center was unsuccessful, and no longer should be the primary focus of the structure.

Those concerned about the Northeast Corridor project should be advised that this legislation contains a delicate compromise which enables the Secretary to

obligate already authorized funds from the Northeast Corridor program to this building. Such use of Northeast Corridor funds has been contemplated since 1977. This legislation in no way interferes with any policy affecting the Northeast Corridor program contained in the Omnibus Reconciliation Act of 1981—Public Law 97-35.

I know that some persons at the Department of Transportation are concerned over the bill because it fails to give the Secretary of Transportation the right to condemn adjacent properties that would be turned over to the selected developer. Personally, I find that the need for condemnation is simply not supported by the facts or equity.

Adjacent lands are in private ownership, the owner of which wish to develop them. I see no sound basis for paying millions of taxpayers dollars for such lands so that another developer can then build on those lands.

Mr. President, this bill offers a reasonable solution to a difficult problem. It deserves the support of the Senate, and the signature of the President. I urge the Senate's approval of the legislation.

Mr. MOYNIHAN. Mr. President, I am honored to request that the name of the distinguished senior Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment and of the bill itself, which has been reported from the committee over which he presided with distinction for so many years.

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

Mr. MOYNIHAN. Mr. President, I express my great appreciation to the Senator from Washington, who has been indefatigable in this matter and who I hope will see the last of it. This will be the fifth statute in 13 years devoted to Union Station. It is our fond expectation that it will be the last one.

Mr. President, our involvement with Union Station goes back to the beginning of this century. In 1901, the Senate Committee on the District of Columbia established a commission on the design of this part of the Capital, the McMillan Commission, as it was called. It is not within the memory even of the senior Senator from West Virginia that at that time the Pennsylvania Railroad Station stood at the bottom of Capitol Hill. It was at the behest of the McMillan Commission that it was moved to its present site. The Post Office was located alongside it, and that most distinguished of American architects, Daniel Burnham, was chosen to create one of our great public buildings.

We believe that the Committee on Environment and Public Works and the Committee on Commerce have devised a solution which will be permanent, which will restore a building which, after 74 years of use, needs structural repair, and which will bring it back to its pristine purpose as a railroad station and restore it to its proper place as—to repeat—one of the great public buildings of our Capital.

I thank the Chair.

I once again express my appreciation to the Senator from Washington.

May I ask the Senator from Washing-

ton if he does not agree that the present passenger station behind the Union Station building is grossly inadequate? It reminds me of the comment Vincent Scully, the Yale University architectural historian, made about the demolition of Penn Station in New York City. That magnificent Beaux Arts building—like Union Station, designed on an ancient Roman model—was torn down and replaced with a subterranean passenger terminal. Scully remarked:

One used to enter New York like a god; now one scurries in like a rat.

Mr. GORTON. I do agree with the Senator from New York. With the best of intentions, we converted a dignified and functional train station to other, as it turns out, less practical uses. The replacement station is neither dignified nor functional—it is grossly inadequate.

Mr. MOYNIHAN. Am I correct in stating that the primary purpose of S. 1192, as reported from both the Committee on Environment and Public Works and the Commerce Committee, is to turn the Union Station building back into a train station?

Mr. GORTON. As a member of both committees, I can tell the Senator he is correct.

Mr. MOYNIHAN. Could you describe for us the actions S. 1192 would require of the Secretary of Transportation to provide an adequate passenger terminal in Union Station?

Mr. GORTON. The bill makes clear that any plan for the Union Station building must include a rail passenger facility and that the design of the facility must protect the Government's interest in maintaining adequate rail passenger service and addressing future passenger needs. We expect that the Union Station building will house a full range of rail passenger service and operational functions, including but not limited to, information, ticketing, passenger handling, station administration and support, public services, and baggage handling. We expect the Secretary to plan the facility to handle adequately the current Union Station peak period passenger levels, as well as projected growth through the 1990's. As the Environment and Public Works Committee's report specifically states:

In no event should the rail passenger services in the historic building provide less usable space than the current "replacement" station.

In all probability significantly more space will be so used. The committees also expect the Secretary to adhere to the criteria set out in the Northeast corridor station performance standards which the Department of Transportation has applied to the other Northeast corridor stations.

Mr. MOYNIHAN. The legislation requires that the Secretary's plan provide improved passenger access to the train. However, it falls short of specifically directing the Secretary to provide for the extension of the tracks to the concourse, as past legislation has required.

Mr. GORTON. That is correct. The legislation directs the Secretary to study those actions that are necessary or desirable to improve passenger access to

the trains. Past plans and studies, including those conducted by the Department of Transportation, have indicated that extending the tracks to the Concourse is the best way to improve passenger access to the trains, and in the long run represents the least costly alternative. It is the committees' expectation that extension of the track to the Concourse would be part of the Secretary's plan, unless the Secretary can develop an alternative that would provide passenger access to the trains which is equivalent to extending the tracks to the Concourse.

Mr. MOYNIHAN. Amtrak's experience in passenger service handling is a valuable resource that the Secretary should utilize in developing recommendations to Congress on Union Station. In addition, as a major owner and developer of real estate, Amtrak can lend its expertise to the commercial development of Union Station. This is addressed in the legislation, is it not?

Mr. GORTON. As provided for in the legislation, the Secretary is to consult closely with Amtrak in developing the rail passenger facility. The committees anticipate that before presenting his plans to Congress for the development of Union Station, the Secretary will have reached agreement with Amtrak on space allocation and location of rail passenger functions in the Union Station building.

The committees recognize that Amtrak has a strong incentive to assure the success of any future development of Union Station. The accompanying Environment and Public Works Committee report S. 1192 has stated that the Secretary's report to Congress should include a plan for managing the redevelopment of Union Station, with recommendations to enable the Federal Government to withdraw from active management of Union Station. The report indicates that Amtrak is a likely candidate to manage the redevelopment program.

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

The amendment (UP No. 712) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. RANDOLPH. Mr. President, it is a privilege for me to commend the Senator from the State of Washington (Mr. GORTON) and the Senator from New York (Mr. MOYNIHAN) in presenting this subject matter this afternoon in the Senate.

They have been, in a sense, the architects of a realistic balance from the standpoint of the use of Union Station. Although they may have been somewhat misguided, the previous efforts to make it a visitors center were not without, let us say, a certain appeal at the time they were undertaken.

Union Station itself was completed in 1907. The Senator from New York has with meaning and eloquence spoken about the earlier efforts to locate a rail station other than at the present site.

Millions of men, women, and children have used Union Station as their entry by rail into Washington, D.C. West Virginians by the hundreds of thousands moved over the Baltimore & Ohio and the Chesapeake & Ohio to our Capital City.

Perhaps it is not too personal, but I was one of the earlier arrivals at the Union Station. I came to Union Station 70 years ago. I came as a young man, a passenger, riding the Baltimore & Ohio Railroad from central West Virginia into the city. I came not to see the White House or this Capitol in which I have worked, on this side and on the House side for 37 years, but I came to see Ty Cobb play baseball at the old Griffith Stadium. I wanted to see Ty Cobb because I was intensely interested in baseball and to me he was the hero of the professional game.

He could not only hit, he could not only run the bases, but he also was preeminent in the field. So he was a triple star in a sense, and I came to see him.

Having ridden all night in the day coach and then having trudged my way through to the old Griffith Stadium, having sat in the bleachers in the blazing sun, it was not a day lost for me because he performed as he apparently did on most occasions.

Then, I went back to West Virginia by day coach. Having ridden all night to be here I returned riding all night to be back in my native State and to go to Salem, W. Va., where I recall so well my mother looking down Main Street and seeing someone coming up with, let us say, a glow upon his face, soot covered and crumpled.

It was a great experience and I mention it—perhaps at too great a length—to indicate that from its beginnings, Union Station has been a very important development in the life not only of the Nation's Capital but the Republic as a whole.

Washington's Union Station has long been generally acknowledged as one of our country's architectural treasures. Yet, for the past dozen years, it has been the victim of bureaucratic infighting, hesitancy on the part of public officials and, yes, poor decisions by the Congress itself. The result has been our continued inability to resolve the Union Station question which culminated yesterday in the closure of the building for safety reasons.

Mr. President, for more than 4 years, members of the Committee on Environment and Public Works have worked in an effort to develop a rational and reasonable solution to this problem. Hearings were conducted, extensive discussions were held with involved parties and legislation has been proposed.

The only positive action before today was the enactment late in the 96th Congress of a bill reported by our committee which authorized \$11 million in emergency repairs to protect the structural integrity of Union Station. Roof repairs have been nearly completed.

Mr. President, we recognize that substantial amounts of money have been expended on Union Station building in recent years. Many of these expenditures

were the result of the perhaps ill-advised plan to convert the building into a National Visitor's Center. To reverse the rapid deterioration of the building and to return it to its proper function as a major transportation center will require the expenditure of additional funds. This is a fact we must acknowledge. It is not, however, a case of throwing good money after bad. Whatever additional funds are needed for Union Station must be provided to protect the millions which have already been invested.

The alternative is the further deterioration of the building to the extent that it could soon be beyond the point of salvation. The legislation we act on today would restore to Union Station its primary function as a transportation center at a time when railroad travel is enjoying a resurgence. The authority to use some portion of the building as a visitor center would be retained.

This measure will do more than preserve a magnificent building that is a part of our architectural, transportation, and political heritage, even though this is a worthwhile objective. It will correct past mistakes in directing the use of Union Station and again make it a railroad station and an entrance to this great Capital City worthy of our Republic and the people of all our States.

So I am very grateful to be included in the amendment offered, to be given the opportunity to speak these words and most importantly to commend all the members of the Committee on Public Works in an earlier period on both sides of this Capitol, to include those members who are today handling this legislation, the Senators whom I have made not cursory remarks toward but very sincere remarks for their leadership in this matter.

I feel that what is being done here is in the best interest not only of that edifice but also the city of Washington and the country as a whole.

Mr. STAFFORD. Mr. President, this bill, the Union Station Redevelopment Act of 1981, is sound legislation. I urge its adoption by the Senate. As one who has struggled for years to find a solution to the difficulties of Union Station, I am confident that this bill will provide a sound resolution. It is one that will attract private capital and enable the Federal Government to fulfill its role as owner.

It must be noted that this bill is not much different from legislation that passed the Senate in 1978, a bill that never become law. I hope that this time the bill can pass the Senate, and soon be on the President's desk for his signature.

This bill represents a compromise approach. It completes the parking garage, while studying the building's structure and its development potential. The bill is designed to attract as much private capital as possible.

More importantly, it seeks to return the building to partial use as a rail station, with development of commercial use of the remainder of the building.

I would note that this building provides large blocks of space that can and should be developed. Over 210,000 square feet of space is available on the ground

and basement levels for use by Amtrak, as well as for leasing to commercial enterprises. In addition, the building contains 80,000 square feet of office space, with a prime location close to Capitol Hill. Personally, I believe it would provide an excellent location for transportation oriented agencies or corporations. It might even be used effectively by the Department of Transportation for some of its own offices.

I would also extend a word of commendation to Transportation Secretary Lewis for his close examination of this issue, as well as to the distinguished Senator from Washington (Mr. GORTON). Senator GORTON worked hard and diligently on this issue, both in the Committee on Environment and Public Works and earlier in the Committee on Commerce, Science, and Transportation. Without Senator GORTON's continuing interest and ideas, we might never have solved this difficult and frustrating issue.

This is a great building. It is a noble building. It must be renovated and developed with those descriptions in mind. It must never become a haven for quick-buck developers who might cheapen this wonderful example of American architecture.

Mr. President, I ask unanimous consent that an article and an editorial from the Washington Post a month ago be printed in the RECORD.

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

UNION STATION: ON THE RIGHT TRACK

Hold your applause for now, but we may soon hear the final trumpet of that great white elephant we once knew and loved as Union Station. Without going into the depressing and outlandishly expensive details of how this once-grand train terminal was trampled to near-rubble by a herd of mischievous bureaucrats, we are pleased to note that a financially and structurally sound Union Station may live again, thanks to a bipartisan effort that is due for its first congressional consideration today.

Coming up for action by a Senate committee is a bill worked out and supported by Transportation Secretary Drew Lewis and key congressional leaders from both sides of the Hill as well as its aides. The basic idea is to 1) stop an insane financial drain on all U.S. taxpayers; 2) restore the building as quickly and as economically as possible, and 3) return the facility to its primary function as a lively and commercially successful transportation hub, instead of a broken-down and boarded-up "visitor center."

While the Interior Department would continue its open-pit surgery—fixing the roof and shoring things up—the bill being considered today would transfer jurisdiction to the Transportation Department, where it belongs. Studies—not the open-ended, made-for-distraction kind—would be completed within a year to determine what permanent structural work is necessary, what to do with office space in the facility and how commercial space might be used in and around the station. Recommendations would include consideration of other transportation facilities, such as a heliport and a terminal for various bus services.

The legislation is not—repeat not—simply another formula for pouring good money after bad. That's already happening, with taxpayers forking out \$3.5 million a year for a lease on the place; this bill is a modest attempt to stop the waste and turn a financial sink-hole into the commercially successful and historically important landmark it once was.

RAIL STATION PLAN GETS REAGAN NOD

(By John Burgess)

After long months of negotiation, the Reagan administration has agreed to a Senate plan to revitalize Union Station. The plan would complete roof repairs already under way and finish the parking garage begun several years ago. If feasible, structural repairs would be made and contracts signed with private firms to develop a commercial complex in and around the monumental Beaux Arts-style station.

A Senate committee is scheduled to mark up a bill today outlining the plan, which also would move control of Union Station to the Transportation Department from Interior. Yesterday, during a lunch at The Washington Post, Transportation Secretary Drew Lewis indicated that he supports the bill's basic elements.

The new plan is the latest in a series of costly and unsuccessful federal efforts to rescue the 74-year-old station, once among the world's grandest rail gateways but today a crumbling white elephant with corroded plumbing and a leaky roof.

On July 4, 1976, the Interior Department opened Union Station as a National Visitor Center, moving trains to a smaller, modern structure to the rear. Despite \$46 million spent on the conversion, the station never caught on in this role and it continued to deteriorate structurally. In February it was closed after rainwater seeped through the roof, dislodging huge chunks of plaster from the ceiling and flooding carpeted floors.

Committee sources predicted yesterday that the bill will be approved by the Senate Environment and Public Works Committee and has a good chance to make it through the full Senate. After that, it would go to the House, where the outcome appears less certain. There is no equivalent legislation in the House.

As now worded, the bill calls for Interior to complete \$8 million of already funded roof repairs and to turn the building's management over to the Transportation Department. The bill also authorizes the District of Columbia to trade in \$10 million in federal highway funds for a like sum to complete a large parking garage last worked on in 1976.

The garage money represented a concession on Lewis' part. In testimony before Congress last July, he opposed allowing the city to shift its funding that way.

In addition, the Senate bill would authorize \$1 million for two major studies of Union Station. One would survey the building's structural problems and determine what repairs are needed and how much they would cost. The other would explore the feasibility of entering into joint development of the station and surrounding property with private developers.

Congressional concern over the station was revived last February following the station's closure. The bill now under consideration is being shepherded through Environment and Public Works by Sen. Slade Gorton (R-Wash.).

Earlier versions of the bill proposed that large sums be diverted to Union Station from ongoing capital programs and to modernize rail lines along the Northeastern corridor. Lewis strongly opposed such diversions.

Both sides, however, agreed that action was needed to save a national monument like Union Station. In negotiations between Senate and Transportation Department staff members, alternative wording was worked out that would take only \$1 million from the Northeast Corridor funding to pay for the two studies. The department would be free to finance certain other spending as it chose.

The development study would explore running transportation to area airports from the station, and constructing a helicopter pad. Lewis would have to report back to Congress within a year with a specific plan for revitalization, assuming that it was found to be economically feasible.

The bill would authorize the department to buy the station over a six-year period (it currently is leased from private railroad interests). The department also could make further repairs to the building, buy surrounding property and contract with private companies for development, under the plan.

The bill specifies that the old building must again become a rail station, with ticketing, baggage handling and other such functions. However, only a fraction of the mammoth station would be needed for this, with remaining space occupied by retail stores and restaurants.

Senate sources said that though the bill contains no specific requirement, its intent is to remove the new station behind the old one where rail passengers now board their trains.

Mr. MOYNIHAN. Mr. President, before I conclude my remarks, could I impose on the Senate just a moment to say that particularly ingenious and effective solutions being reached for this could not have come about but for the work of Mr. Mat Scocozza of the Commerce Committee staff, and Mr. Hal Brayman and Mr. Robert Peck of the staff of the Committee on Environment and Public Works.

I thank the Chair.

Mr. GORTON. Mr. President, I should like also to thank both the Senator from New York and the very distinguished Senator from West Virginia for their kind comments. I am, of course, new at this business. Each of them has been working diligently toward the objective of this bill for a number of years. Each of them deserves a great deal of credit for what we hope will prove to be a successful restoration of Union Station.

In addition, I need to say for the record that notwithstanding the Congressional Budget Office cost estimate, this measure is not intended to create new appropriations for fiscal year 1982. Any expenditures of funds will be encompassed within appropriations otherwise made available for related purposes.

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

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1192

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 "Union Station Redevelopment Act of 1981".

SEC. 2. The Congress finds and declares that—

(1) Union Station in Washington, District of Columbia, commissioned by Congress in 1903, designed by Daniel H. Burnham in monumental Beaux Arts style, and completed by the Washington Terminal Company in 1907, is an important historic and architectural landmark of the Nation's Capital;

(2) Union Station was built and used exclusively as a rail passenger station until Congress decided to make the historic Union Station building a National Visitor Center in 1963, allocating rail passenger operations to a replacement facility behind the historic building;

(3) the use of rail passenger service to and from Washington, District of Columbia, declining when the National Visitor Center Facilities Act of 1968 was enacted, has dramatically increased since that time with the advent of and substantial Federal invest-

ment in the National Railroad Passenger Corporation and the northeast corridor improvement project, justifying a reversal of the policy adopted 13 years ago;

(4) the historic Union Station building is now unsafe and unusable, and the replacement station is inconvenient and inadequate for present and projected rail ridership demand;

(5) it is in the national interest to preserve the architectural features of Union Station and to provide in the Union Station complex a sound and fully operational transportation terminal;

(6) the Union Station complex and its vicinity present an opportunity for successful commercial development integrated with the transportation functions of the facility; and

(7) the purposes of this Act are to achieve the goals of historic preservation and improved rail use of Union Station with maximum reliance on the private sector and minimum requirement for Federal assistance.

SEC. 3. Title I of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 801 et seq.) is amended—

(1) by striking "National Visitor Center" in the caption of title I and inserting in lieu thereof "Union Station";

(2) by inserting a new caption "Subtitle A—National Visitor Center" immediately after the new title I caption; and

(3) by adding at the end of title I the following new subtitle:

"Subtitle B—Union Station Redevelopment"

"Sec. 111. (a) Upon the request of the Secretary of Transportation, the Secretary shall assign to the Secretary of Transportation all of the Secretary's right, title, and interest in the Union Station complex, including all agreements and leases entered into under subtitle A of this title. Such assignment may reserve to the Secretary the right to lease space for visitor services, to the extent the Secretary and the Secretary of Transportation may agree. For purposes of this title, the "Union Station complex" shall include all the real property, air rights, and improvements leased by the Secretary under subtitle A of this title, together with any property acquired and all improvements made in accordance with this subtitle.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Secretary shall, not later than twelve months after the date of enactment of this subsection, complete the installation of new roofs and associated drainage systems on all existing roof surfaces of the historic Union Station building. Of funds appropriated to the Secretary under the construction appropriation for the National Park System for the fiscal year ending September 30, 1982, not less than \$8,100,000 shall be available to and allocated by the Secretary for such roof work. In the event the assignment provided for in subsection (a) of this section occurs prior to completion of such roof work, the Secretary shall continue to be responsible for such roof work until its completion, except as the Secretary and the Secretary of Transportation may otherwise agree.

"(c) Prior to the assignment provided for in subsection (a) of this section, the Secretary shall permit the Secretary of Transportation to carry out or cause to be carried out the activities authorized by this subtitle or by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.).

"(d) After both the assignment provided for in subsection (a) of this section and the completion of the roof installation required by subsection (b) of this section, the Secretary shall be relieved of the authority and obligation under subtitle A of this title to construct and operate a National Visitor Center at Union Station. The provisions of

subtitle A of this title shall thereafter be deemed superseded by any contrary or inconsistent provisions of subtitle B of this title.

"Sec. 112. The Secretary of Transportation shall provide for the rehabilitation and redevelopment of the Union Station complex primarily as a multiple-use transportation terminal serving the Nation's Capital, and secondarily as a commercial complex, in accordance with the following goals:

"(a) Preservation of the exterior facade and other historically and architecturally significant features of the Union Station building;

"(b) Restoration and operation of a portion of the historic Union Station building as a rail passenger station, together with holding facilities for charter, transit, and intercity buses in the Union Station complex;

"(c) Commercial development of the Union Station complex that will, to the extent possible, financially support the continued operation and maintenance of such complex; and

"(d) Withdrawal by the Federal Government from any active role in the operation and management of the Union Station complex as soon as practical and at the least possible Federal expense consistent with the goals set forth in subsections (a) through (c) of this section.

"Sec. 113. (a) There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to meet lease and other obligations, including maintenance requirements, incurred by the Secretary and assigned to the Secretary of Transportation under this subtitle. The Secretary shall transfer to the Secretary of Transportation at the time of such assignment such sums as may have been appropriated to the Secretary to meet such obligations and not yet expended as of the date of such assignment.

"(b) Notwithstanding the provisions of section 102(a)(5) of this title, the Secretary of Transportation is authorized to purchase for the United States any property that was leased by the Secretary under subtitle A of this title and assigned to the Secretary of Transportation under this subtitle. The purchase agreement for such property may provide for payment by the Secretary of Transportation over a term not to exceed six years. There are authorized to be appropriated to the Secretary of Transportation, in addition to the sums authorized by subsection (a) of this section, not to exceed \$275,000 per year for not to exceed six years to carry out such purchase. Such purchase shall not be subject to the provisions of title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651 et seq.).

"Sec. 114. (a) The Secretary of Transportation shall, on an emergency basis, carry out an engineering survey of all existing structures at the Union Station complex for the following purposes:

"(1) to determine those actions necessary or desirable to preserve the long-term structural integrity of, and provide functional utility systems for, the historic Union Station building;

"(2) in cooperation with Amtrak, to determine those actions necessary or desirable to restore rail passenger handling functions to the historic Union Station building and otherwise improve rail passenger service facilities at Union Station, including improved passenger access to the trains; and

"(3) to prepare detailed estimates of the costs of such rehabilitation and improvement.

"(b) Concurrently with the engineering survey required by subsection (a) of this section, the Secretary of Transportation, in cooperation with the National Railroad Passenger Corporation, shall carry out a planning and market feasibility study to assess the commercial development potential of the Union Station complex. Such study shall also

include, but not be limited to, an assessment of the feasibility and desirability of:

"(1) providing passenger transportation services from Union Station to the commercial airports in the area;

"(2) constructing a heliport at or near the Union Station complex; and

"(3) relocating to office space in Union Station the offices of Federal or other public transportation agencies.

"(c) The Secretary of Transportation shall complete the engineering survey required by this section not later than six months after the date of enactment of this section, and shall complete the planning and market feasibility study required by this section not later than twelve months after the date of enactment of this section.

"(d) Of amounts appropriated under section 704(a)(1) and (2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1) and (2)), \$1,000,000 shall be available to and be utilized by the Secretary of Transportation to carry out the purposes of subsections (a) and (b) of this section.

"(e) Within twelve months following the date of enactment of this section, the Secretary of Transportation shall submit a report to the Congress on the results of the engineering survey and planning and market feasibility studies carried out under this section. Such report shall be referred to the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate and the Committees on Energy and Commerce, and Public Works and Transportation of the House, respectively. Such report shall include a specific commitment of Federal funds for completion of the rehabilitation of the historic Union Station building, together with any necessary request for appropriations, in the amount determined by the Secretary of Transportation to be necessary in light of the survey and studies carried out under this section, from either or both of the following sources:

"(1) funds authorized to be appropriated and not yet appropriated under section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) that are in excess of the amounts set out in the last sentence of such section 704(a); and

"(2) funds programed or reprogramed from any other appropriation available to the Secretary of Transportation. Notwithstanding any other provision of this subsection, no funds from the Northeast Corridor Improvement Project and other rail or rail-related programs in excess of \$29,000,000 shall be available for the completion of the rehabilitation of the historic Union Station building or other purposes determined by the Secretary of Transportation to be necessary in light of the survey and studies carried out under this section if within 90 calendar days of continuous session of the Congress after any request for such excess funds either the Committee on Energy and Commerce of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate disapproves of the availability of such excess funds for such purposes by majority vote. For purposes of this subsection, continuity of session of the Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period described in this subsection.

"Sec. 115. (a) In order to achieve the goals set out in section 112 of this subtitle, the Secretary of Transportation is authorized to select and subsequently enter into one or more agreements (hereafter in this Act referred to as "development agreements") with one or more responsible individuals, corporations, or other private entities with

demonstrated experience in the financing, undertaking, and managing of commercial real estate development (hereafter in this Act referred to as 'developers').

"(b) The Secretary of Transportation shall prescribe the procedures and criteria for selection of a developer for the Union Station complex: *Provided*, That no final developer selection shall be made unless and until at least two developers meeting minimum criteria prescribed by the Secretary of Transportation have submitted to the Secretary of Transportation specific design and financing proposals for the rehabilitation and redevelopment of the Union Station complex, and specific proposals for the acquisition, conveyance, or lease of real property. The Secretary of Transportation is directed to initiate discussions with potential developers as soon as possible following enactment of this section to assure the earliest possible selection of a developer or developers.

"(c) Development agreements entered into this section shall be considered cooperative agreements for purposes of the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.). With respect to such development agreements, the Secretary of Transportation is authorized to modify or waive the application of regulations otherwise applicable to Federal or Department of Transportation financial assistance agreements, to the extent the Secretary of Transportation determines in his discretion to be necessary to accomplish the purposes of this subtitle at the lowest cost to the Federal Government.

"(d) The Secretary of Transportation is further authorized to enter into such other agreements and contracts, except any agreement or contract to sell property rights at the Union Station complex, with such persons, corporations, financial institutions, Federal, regional, or local agencies, or the Architect of the Capitol as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle. Any such agreement may be made assignable to a selected developer or developers of the Union Station complex.

"Sec. 116. (a) (1) The Secretary of Transportation is authorized to acquire for the United States, by lease, purchase, or otherwise, any interest in real property (including, without limitation, interests in the nature of easements or reservations) and any other property interest (including, without limitation, contract rights) in or relating or adjacent to the Union Station complex that the Secretary of Transportation deems necessary to carry out the purposes of this subtitle.

"(2) If the Secretary of Transportation determines that property under the jurisdiction of the Architect of the Capitol in squares 721 and 722 eastward of the historic Union Station building is necessary to carry out the purposes of this subtitle, the Secretary of Transportation may request assignment of such property to the use of the Secretary of Transportation, as a part of the Union Station complex, and subject to the provisions of this subtitle, and the Architect of the Capitol shall so assign such property.

"(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized to maintain, use, operate, manage, and lease, either directly, by contract, or through development agreements, any property interest held or acquired by the Secretary of Transportation for the United States under this subtitle, in such manner and subject to such terms, conditions, covenants, and easements as the Secretary of Transportation deems necessary or desirable to carry out the purposes of this subtitle.

"Sec. 117. (a) The Secretary of Transportation is authorized to use income and proceeds received from activities authorized by

this subtitle, including, without limitation, operating and leasing income and payments made to the Federal Government under development agreements, to pay expenses incurred by the Secretary of Transportation in carrying out the purposes of this subtitle, including, without limitation, construction, acquisition, leasing, operation, and maintenance expenses, and payments made to developers under development agreements.

"(b) A special deposit account is hereby established in the Treasury of the United States, to be known as the Union Station Fund, which shall be administered as a revolving fund. Such special deposit account shall be credited with receipts of the Secretary of Transportation from activities authorized by this subtitle and the balance in such special deposit account shall be available in such amounts as are specified in annual appropriation Acts for making expenditures authorized by this subtitle.

"Sec. 118. (a) Notwithstanding any other provision of title 23, United States Code, and other Acts pertaining to Federal-Aid Highways, the Secretary of Transportation shall immediately approve the completion of the parking facility, and associated (including any necessary pedestrian access and walkways, escalators, elevators, moving sidewalk access, and connections) at Union Station, to be financed with interstate highway funds apportioned to the District of Columbia. To the extent necessary to complete such project, such apportionment shall not be subject to any obligation limitation enacted for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983. The amount of such apportionment necessary to complete such project not to exceed \$40,000,000, shall remain available to the District of Columbia until expended, without regard to the provisions of section 118(b) of title 23, United States Code. The Federal share shall be 100 per centum of the total cost of such project.

"(b) Within sixty days of the enactment of this section, the Secretary of Transportation shall enter into an agreement with the District of Columbia's Department of Transportation for the Secretary of Transportation's administration of the project described in subsection (a) of this section. Such project agreement shall provide that all right, title, and interest in such parking facility shall remain in the United States. The rate of fees charged for use of the parking facility may exceed the rate required for maintenance and operation of the facility, and shall be established in a manner that encourages its use by rail passengers and participants in activities in the Union Station complex and area.

"Sec. 119. (a) The Secretary of Transportation is authorized, on such terms and conditions as he may prescribe, to release the Washington Terminal Company from any or all of its obligations under agreements and leases entered into under subtitle A of this title, including, without limitation, the obligation to construct a new railroad passenger station as provided in section 102(a)(4) of this title.

"(b) The Secretary of Transportation shall waive such statutory or contractual restrictions on the use of the parking structure and associated ramps described in section 118 of this subtitle as would otherwise be required or imposed because funds for such construction were or are provided under the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

"(c) The Secretary of Transportation is authorized to use funds appropriated under section 704(a)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(2)) to carry out the purposes of this subtitle without regard to the matching funds requirement of section 703(1)(B) of such Act (45 U.S.C. 853(1)(B)).

Funds appropriated under section 704(a) of such Act may not be used for design, construction, or operation of a heliport at or near Union Station.

"(d) The Architect of the Capitol is authorized to enter into agreements with the Secretary of Transportation or his designee or assign to furnish steam or chilled water or both from the Capitol Power Plant to the Union Station complex, at no expense to the legislative branch."

Sec. 4. (a) The Act approved November 5, 1966 (Public Law 87-759) and section 108 of the National Visitor Facilities Act of 1968 (Public Law 90-264) are repealed.

(b) Section 102(b) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 802 (b)) is amended by striking the word "title" and inserting in lieu thereof the word "subtitle".

Sec. 5. As used in section 502(a)(1)(B) of the Rail Passenger Service Act, the term "Amtrak Commuter" shall mean, with respect to the period prior to January 1, 1983, "Conrail".

Mr. MOYNIHAN. Ms. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

EXTENSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, before the Senator starts, I ask unanimous consent that the time for the transaction of morning business be extended until 6 p.m.

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

Mr. HOLLINGS. I thank the distinguished majority leader and the distinguished Senator from New York for yielding.

DEFENSE AND THE B-1 BOMBER

Mr. HOLLINGS. Mr. President, to understand the controversy over the B-1 bomber, a person must appreciate: First, the nature of modern weapons; second, the limits of our economic resources; and third, the limits to the usefulness of a manned penetration bomber.

THE NATURE OF MODERN WEAPONS

The strategy for American survival is premised on the superiority of technology. We do not and cannot compete against the Russians or Chinese militarily on a man-for-man basis. We do not and cannot compete against the Soviets one tank versus one tank.

We have 11,000 tanks while the Soviets have 50,000. How do we hope to fight and win given this ratio? The answer is in a superior tank with a superior tank operator.

We intentionally include on our tanks sophisticated fire control systems, advanced suspension systems, laminated armor, and other state-of-the-art gear because we know it is not going to be one-for-one situation. Our one tank must be capable of knocking out 5 or 10 of theirs in order to prevail.

We are constantly hearing today that America's weaponry is too sophisticated, that it contains too much expensive technological gear, and that we cannot find the skilled personnel to operate

and maintain the weaponry. Some argue that all we need is a cheap, "tough" tank—like the Soviets build—to survive better in battlefield conditions.

We could easily produce that kind of tank, if we are ready, willing, and able to produce and man 50,000 of them. This we cannot do. For one thing, we do not intend to have that large a standing Army, so we go for the superior tank, making sure the advanced technology is designed for the needs of the battlefield. This has always been our military approach.

It applies to the shoes the soldier wears as well as to the bombers we send aloft. The constant task facing Congress is to insure that we keep ahead with technology. We want our troops to have the best equipment in every aspect. Of course, we must also be able to afford it.

THE LIMITS OF OUR ECONOMIC RESOURCES

When we fought World War II, an M-1 rifle cost \$41.20. A Sherman tank went for \$40,000. And a B-17 manned penetration bomber cost \$97,000. Right now it appears that the projected cost for each B-1 bomber would be \$400 million.

Everyone knows that today we are operating with limited economic resources. In a world reeling under inflation and high interest rates, every program is being cut. While we are trying to increase our defenses, that is not to say we are trying to increase our costs. We must look at each proposed military expenditure from every angle—not only how much it costs, but how much it costs to repair; not only how much one of them costs, but how much do 100 cost and what is the effect on the budget and the economy.

We must make economical buys, and when it comes to bombers they must last. We are not looking at the cost of just long-range bombers, but the cost of medium bombers, the cost of fighter bombers, the cost of fighters, of helicopters, and observation planes all the way down to the Piper Cub. And we must figure the cost of the manned Shuttle because it too has military applications.

These costs must be seen within the larger context of the overall defense budget—the cost of equipping the infantry, the cost of building aircraft carriers and Trident submarines at \$2 billion apiece, and the cost of ammunition from the rifle bullet to one piece of ammunition fired from a plane—the Phoenix missile costing over \$1 million a copy. Over and above hardware come personnel costs which exceed \$100 billion a year.

All these defense costs must be considered against the backdrop of other Government endeavors—like law enforcement, highways, health costs, social security, price supports for agriculture, and aid for small business. Somewhere there is a limit—and we have been exceeding the limit. We have been borrowing from the next generation in order to pay for all this Government. The results—busted budgets, tax cuts written in red ink, and high interest rates.

At \$400 million each, the 100 B-1 bombers being asked for will cost us \$40 billion; \$40 billion over the next 5 years is about what we had hoped to increase the entire defense budget.

For \$40 billion, we can buy a lot of sorely needed infantry-fighting vehicles, submarines, tanks, helicopters, destroyers, pre-positioning ships, landing gear for the Marines, and ammunition for everybody.

So before we commit to \$40 billion and 5 years on a single weapon, we must stop, look, and listen. We must understand that our conventional forces are in a sorry state of readiness—the principal trouble being that we have denied them the equipment, the flying hours, the steaming hours, and the vehicles necessary for training, mobility, and readiness.

We are 60,000 trucks short in the Army right this minute. Look at our inability to defend against gas or chemical warfare. The next war will not be fought by one soldier just shooting at another man. The field of battle for conventional forces may very well be gassed by our adversary. The Russians have already used gas in Laos, Cambodia, and Afghanistan.

Their infantry wears protective clothing developed for this kind of warfare. In another advance, Soviet troops travel in modern infantry-fighting vehicles. They have 76,000 of these—the United States has none. It is tough to tell the Commandant of the Marine Corps that we cannot give him the gear he needs because the B-1 has just gobbled up all the money. I just did that this week.

We are not prepared to fight a conventional war. Clausewitz said, "History shows that a nation fights the war that it is prepared to fight."

We are not prepared to fight in the Indian Ocean, so we will not. We are not prepared to fight a conventional war in NATO, so we will not. We are only prepared to fight a nuclear war—so we will if one comes. The best way to avoid the nuclear holocaust is to be prepared to fight the conventional battle. But the B-1 is a nuclear carrier. Underprepared for conventional war, the B-1 overprepares us for nuclear.

The Soviets did not march on Angola or Afghanistan with a nuclear attack. They went with conventional forces. For 10 years now, we have been "détenting" and dillying and darsarming while the Soviets have been beefing up and outspending us militarily by \$500 billion.

We cannot repair this difference in a year. It will take several years. So we must set priorities. Is the primary need another Trident submarine, or is it an aircraft carrier? Is the first order a number of tanks, or helicopters? A manned bomber, or more and better equipment for our conventional forces?

I believe the first priority is manpower. I have written about the draft in a previous newsletter. I believe that the one best move to build our military and show our commitment is the universal draft. It would get a cross-section of our society participating in America's defense. It would give us the skills. It would cost less, and it would evidence our will power as well as our military power.

My second priority would be readiness. That includes money for ammunition, money for fuel, money for operations and maintenance of the equipment, and money for adequate flying, steaming, and training hours.

Rather than \$40 billion for a single weapon—a manned penetration bomber—I would rather spend that same amount over the next 5 years on fleshing out the Rapid Deployment Force in the Indian Ocean, equipping the Marines, equipping our National Guard and Reserves, reëtting nine Navy ships, buying some attack submarines, tanks, helicopters and fighters, and speeding up development of the next generation of manned, penetration bombers—the Stealth.

THE LIMITS TO THE USEFULNESS OF A MANNED PENETRATION BOMBER

So you will understand where I am coming from, I am a strong believer in the military and a strong supporter of the Air Force. At this moment, we have many bombers. We have long-range penetration bombers, such as 345 B-52's and 63 FB-111's. We have many medium- and short-range bombers such as the F-15's, remember the Saudis were asking for bomb racks for their F-15's; hundreds of F-16's, remember this is the plane that Israel used to bomb Baghdad. We soon will have the superior F-18 fighter-bomber by the hundreds. We have A-6's, A-7's, and VSTOL fighter-bombers. I touch on this to emphasize the difference between medium-range bombers and the long-range bombers needed to penetrate Soviet defenses. We are continuing to build and capitalize on America's technology. But as concerns the B-1, there are limits to its ability to penetrate. Generally, there are limits on the manned bomber which makes it necessary for us to put our eggs in more than one basket.

Everyone agrees that the B-1 bomber can no longer be depended upon as a penetration weapon after 1990. We know that the B-52, old as it is, can carry us that far. And we know that we cannot get the first squadron of B-1's flying until 1987 at the earliest.

The bottom line then, if everything proceeds on schedule is a \$40 billion program to provide penetration for the 3 years between 1987 and 1990. After that the state of Soviet defenses will make it impossible for either the B-52 or the B-1 to get through.

The B-1 has simply become too expensive for its primary mission. Surely it can be used after 1990 as a stand-off cruise missile carrier but paying \$400 million a copy for this role is unthinkable. The \$400 million cost has been disputed.

But special studies by the General Accounting Office and the Congressional Budget Office confirm this cost.

Finally as a maneuver with the Congress, the Air Force has been citing inflated costs to keep the B-52's going until the 1990's inferring that rather than paying the expense to keep the B-52's in the air, you could use the same money to buy the new B-1.

Whether you go for the B-1 or go for the Stealth or go for both or go for nei-

ther, every plan shows that the B-52 must be kept current and flying until 1993. And so those costs will have to be paid.

Then when they are phased out in 1993, the question is: shall they be replaced totally by the Stealths that can penetrate or by the B-1 that cannot or by both—if we had the money.

The B-1 is a superb plane and I wish we had 200 B-1's on the line today. Five years ago, I implored President Carter to move forward with the B-1. Instead we wasted 5 years and \$5 billion and the opportunity to have them flying over the kind of reasonable lifetime that such a huge investment requires.

Carter made his decision, the factory has closed down, and the cost has soared from \$100 million apiece to \$400 million. There is a time for every weapon, and the B-1's is passing.

On November 5, Secretary of Defense Caspar Weinberger testified:

I think there is no question whatever that we will not be able to use the B-1 as a penetrator after 1990.

Earlier, Secretary Weinberger had emphasized the limits of the B-1 after 1990 by stating:

If you do the B-1 only you spend a lot of money—again I am trying to guess at the extent of development of the Soviet air defenses, so if I use a couple of years, give me leeway 1989, 1990, probably 1988 to 1989—you lose the ability to penetrate unless someone wants to direct suicide missions and that is not anything I am going to do.

This only confirms a similar statement by Fred C. Ikle, Under Secretary of Defense for Policy before the Armed Services Committee on October 27, 1981.

Recently, the United States has been developing a Stealth or advanced technology bomber. This plane is designed to confuse the enemy radar and fire control system so that it can penetrate successfully and reach targets well within the land mass of the Soviet Union. Some would argue that the technology is unproved, too "chancey" to count on and will not be ready by 1990.

However, the technology has been proved and as former Assistant Secretary of Defense for Policy Perry has stated, it can be developed by 1989.

Wanting both the B-1 and the Stealth, the Air Force is dragging its feet on the Stealth to make it seem that both planes will be necessary.

Accordingly, the administration has requested both the B-1 and the Stealth. Given the limited usefulness of the B-1, given our other defense needs, and given the general state of the budget and the economy, I do not believe we can afford to proceed with both.

It would be far more cost effective, and far better for the overall strength of the military, if we speeded up the Stealth bomber and tried to get it on line a year or two earlier than presently projected.

To understand the limits on manned bombers generally—and to appreciate why proceeding with two new systems is outlandish—we need to remember that America's strategic defense consists of a triad: First, the intercontinental ballistic missile, or ICBM; second, the Posei-

don or Trident submarine; and third, the manned bomber.

These provide the options for penetrating the defenses of the Soviet Union over a long distance. If the military need ever comes to penetrate all the way to Moscow, the best way is with a ballistic missile launched from either land or sea.

An almost equally good way is with a cruise missile, whether it is land launched from Europe, submarine launched from the sea, or launched from a B-52 standing off outside the borders of Russia. The most inefficient way is by manned bomber, given Soviet defenses and the vulnerability of the weapon.

So, in recent years, the long-range manned bomber role is being more and more taken over by the small, difficult-to-detect cruise missile. It is relatively cheap, accurate, and better able than a bomber to get through to its target.

Some of our armchair experts argue for the superiority of the bomber over the missile by saying that once the missile is launched, there is no calling it back. My answer is that we better not have a plane with a nuclear bomb wandering around Moscow while we are still wondering if we have given the right order.

In fact, I cannot imagine an American Commander in Chief ordering a manned bomber to attack Moscow unless we are already into a nuclear holocaust.

When that point in warfare has been reached, it seems pretty clear that we would be going with our ICBM's, intermediate ballistic missiles, and cruise missiles.

This is not to say that the role for the manned bomber is finished. But it is to say that it does not have the commanding role it once had. It is now part of a larger weapons inventory that includes faster and more accurate systems.

Some, like the cruise missile, are far cheaper. We can and should retain the ability to penetrate Soviet airspace with a manned bomber. We have that capability with the B-52 which has served us long and well and which can be used to fly those 3 additional years beyond 1987.

After 1987, neither the B-52 nor the B-1 will be able to penetrate Soviet air defenses. After that, only the Stealth will be able to get through.

So is it not the wisest policy to accelerate Stealth? It will be able to penetrate from the 1990's on, and it can be delivered as early as 1989. By taking this course, we can save the \$40 billion and expend it on readiness and in all those other areas of preparedness that we have been short changing for the past decade.

I know this disappoints my friends in the Air Force. Secretary of Defense McNamara back in 1964 canceled the B-70, and in 1977 President Carter canceled the B-1. I am sure by now that if someone could give a guarantee that the Stealth would be built as a replacement for the B-52, the Air Force would abandon its drive for the B-1.

They have been worried for years about a replacement for the B-52 and now they have a President, finally, willing to go along—even though it is economic nonsense.

As a result of this paranoia, the Air Force has requested a \$400 million conventional bomber and a \$300 million Stealth strategic bomber. For a conventional bomber, we could easily and far more economically beef up our FB-111's at \$64 million a copy rather than \$400 million as recommended by Gen. Richard H. Ellis, former Commander in Chief of the Strategic Air Command. But we cannot afford the B-1 and the Stealth.

We need to strengthen our Triad with the Stealth. We need to strengthen our overall readiness in defense. The task is to allocate limited resources. On this basis, I oppose the B-1, favor expediting the Stealth, and favor immediately allocating this \$40 billion to readiness.

THE IMPORTANCE OF AMERICA'S PREEMINENCE IN SPACE

Mr. CANNON. Mr. President, once again the Space Shuttle has flown successfully and returned to Earth, and I would like to take this opportunity to congratulate the fine NASA-industry team which made this flight such a success and the magnificent skill of Astronauts Joe Engle and Richard Turley.

Unlike other nations, the United States is not afraid to let the international press view every step in the development of its civilian space program, and the Space Shuttle has not been an exception. We are willing to share with the world our successes as well as our failures as we develop this tremendous capability.

The fact that NASA had a problem with one of the three fuel cells on board the Shuttle should not cause undue concern. The Shuttle needed only one operable fuel cell to be able to return to Earth, and any research and development effort, such as the Space Shuttle, requires a period of time to work out the "bugs" in its design.

It takes a lot of talent, effort, and dedication to translate the initial conception of a major space system like the Shuttle into an operational reality, and I am fully confident that we will develop this capability. We are, with this first-time-ever return of the same vehicle to space, well on the way to doing so.

Mr. President, while I am proud of the continuing success of the Shuttle's development, I am also concerned about a waning resolve to move forward and insure our preeminence in space during the 1980's. The Space Shuttle, as magnificent as it is, is still just a transportation system capable of transferring astronauts and cargo from the Earth's surface to an orbit several hundred miles above the Earth.

What we ought to be thinking about and planning for now is how to use this capability for various commercial, scientific, and national security missions, and defining what other basic capabilities are needed to complement and enhance our use of the Shuttle.

While we follow the development of the Shuttle into an operational capability, we must recognize that we cannot stand still in the other areas of the space program. We must also invest in these areas as well, or we will lose our leader-

ship in space to other nations who are willing to make the investment—and other nations are moving in that direction.

Our investment will not involve large amounts of additional funding, but rather a commitment to fund NASA in the future at approximately its current level, adjusted for inflation.

In the past our main source of competition was the Soviet Union. This no longer is true as other nations develop the capability to operate in space. We are entering a new era of international competition in space, particularly for commercial purposes. The primary competitors in the future, in addition to the Russians, will be the Europeans and the Japanese.

We must view our space program in this new context of competition while retaining the long-standing benefits of cooperation in the exploration of the solar system and the universe beyond.

Let us also not lose sight of the goal, stated in the National Aeronautics and Space Act of 1958, that:

Our activities in space should be devoted to peaceful purposes for the benefit of all mankind.

The use of space for national security purposes has helped to preserve world peace and lessen the likelihood of a global war. Since some of the capabilities needed by the military space program are also needed by the civilian space program, a development in one area can be used in the other.

The Space Shuttle is one example of this, and weather satellites are another. Thus, funding for our civilian space program can either directly or indirectly aid our military space program.

The commercial use of space, while almost 20 years old, is still in its infancy. During the 1980s, a tremendous growth in the use of communications satellites is anticipated. Not only will existing services be expanded, but new uses will also be developed.

In addition, the use of satellites to detect and monitor the Earth's resources, and the manufacture of various products in space are being investigated by NASA and industry, and these capabilities may further expand our commercial use of space in the 1990's.

In a real sense, our commercial use of space parallels our commercial use of aviation. Today, aviation is at least a \$100 billion a year enterprise in the United States alone. Who would have thought that this would have occurred at the time of the Wright Brothers' first flight, or for that matter, at the time of Charles Lindbergh's flight about 20 years later.

Our continued commercial success in the field of aviation depends upon NASA doing the high risk research and development that industry cannot afford to do. Without that help, our industry would soon lose its preeminence to foreign competition.

Similarly, our preeminence in the commercial use of space depends upon NASA performing the high risk research and development in order to develop the knowledge necessary for private industry to build viable commercial systems.

The exploration of the solar system and the universe beyond is the greatest adventure of our time, and the Apollo, Viking, and Voyager missions may someday be seen to have been as important to the world as the voyages of Columbus, Magellan, and Drake. Not only are we learning a tremendous amount about the origin and nature of the universe, but we are also laying the foundation for the expanded use of space by future generations of Americans.

EXPANDING OUR COMMERCIAL USE OF SPACE

Mr. President, I should now like to describe the three areas that are likely to lead our expanded use of space for commercial purposes in the next 10 to 20 years: Communications satellites, remote sensing satellites, and the manufacture of various products in space.

COMMUNICATIONS SATELLITES

Communications satellites have been the only commercial product that has made a profit in the past. This business will continue to expand during the 1980's. According to a recent comprehensive study by Western Union, the worldwide communications satellite market is estimated to be \$35 to \$50 billion over the next 20 years.

The U.S. market alone is estimated to be \$16 to \$20 billion during this time period.

This estimate includes such potential new services as video teleconferencing which could improve productivity and reduce the amount of business travel; and the direct broadcast of television signals from a communications satellite to individual homes which could vastly increase the number of television channels received and would not require the installation of an extensive cable television network.

Starting with the Syncom series of spacecraft which established the feasibility of using the geosynchronous orbit, the United States has led this field for many years. NASA developed a significant in-house expertise, funded the development of new technology by several U.S. contractors, and played a leadership role in making this a uniquely U.S.-dominated field.

In late 1972, the U.S. Government thought that the industry had matured to the point where it could support its own R. & D. needs and decided that NASA should not initiate any communications satellite flight programs beyond the sixth applications technology satellite (ATS-6).

The funding for such programs, which had ranged between \$80 and \$120 million per year, in 1981 dollars, over the period 1962-74, was sharply reduced to approximately \$10 million per year.

The reduced amount was just sufficient to allow operation of on-going experiments, low-level technology development, and limited system concept studies.

Europe and Japan were quick to fill the vacuum left by NASA's withdrawal from satellite communications, as evidenced by their increased investment and rapid rise to leadership in several communications satellite technologies.

Even more important is the fact that European and Japanese manufacturers

are moving from the fabrication of components to the fabrication of subsystems and complete systems, and changing their roles from that of subcontractor to prime contractor.

A recent Japanese report estimates that Japan's space industry will expand to five times its present size by 1990 and continue this growth during the 1990's. Much of this growth will occur in communications satellites. Let us make sure that we do not wind up buying our communications satellites from Japan in the future and becoming second-best in another commercial sector.

In order to meet this challenge, NASA working with the communications satellite industry, should develop the 30/20 GHz frequency band. This will enable the United States to maintain its preeminence in communications satellites into the 1990's.

REMOTE SENSING

Remote sensing satellites can help us discover new sources of non-renewable resources, monitor the size and quality of our water supply and agricultural crops, and detect major sources of environmental pollution.

Thus, they can help us sustain and improve the quality of life around the globe by providing us with accurate information with which to make vital decisions which will affect us all.

For more than a decade, Congress has expressed an interest in establishing an operational civil land remote sensing system. The operational system would build upon NASA's experimental Landsat system.

The evolution to an operational system has not yet occurred because the financial risks in operating such a system are great and the profit not clearly defined. The Carter administration proposed that the Federal Government operate an interim operational system during the 1980's until it was feasible for private industry to take over the system.

Earlier this year, the Reagan administration decided that the Federal Government should limit its support for an interim system to Landsats D and D', with the hope that private industry would take over the system after the demise of Landsat D'—nominally about 1988.

The goal of having the private sector take over the system was the same; the difference between the positions of the two administrations was in the timing and the role of industry and Government.

Recently, the Senate Subcommittee on Science, Technology, and Space and the House Subcommittee on Space Science and Applications held joint hearings to gather additional information and opinions on the best way to accomplish the transition to an operational system and the role of private industry in such a system. There was general agreement among the witnesses that:

First, the Landsat data was useful;

Second, data continuity and increased marketing was the key to the success of an operational system;

Third, the cost of the data should be more realistically priced; and

Fourth, NASA should continue to do the high risk R. & D. in remote sensing.

There was no agreement on the best way to accomplish the transition to an operational system and the role of private industry in it.

Additional time will be needed before this can be resolved. One thing ought to be clear, however, the United States has invested over a billion dollars in developing a civilian remote sensing capability, and we should think of a payoff in this area on a long-term basis.

Now is not the time to be penny-wise and pound foolish and thus lose our commercial remote sensing capability to foreign competition.

The French are planning to build a remote sensing system called SPOT. Their first satellite will be launched in 1984, and it will have some performance characteristics that are better than, or not available with, the Landsat satellites.

Japan, the European Space Agency (ESA), and India are also studying possible additional remote sensing systems during the 1980's. Competition with our Landsat system is real and just over the horizon.

With this in mind, I would like to propose an approach for the transition to an operational remote sensing system which will enable it to occur as soon as possible, protect the public interest and the U.S. taxpayers' investment, and permit the maximum participation by private industry. The U.S. Government should insure data continuity by agreeing to continue to operate the space segment, that is, the Landsat satellites, until the early 1990's or until industry is capable of taking over the space-based segment, whichever comes first.

Private industry would take over the operation of the ground segment on a competitive basis. Raw data transmitted to the ground from the Landsat satellites, as well as processed data, would be sold to anyone who wishes it.

This will encourage maximum competition in private industry and enable private industry to market the data to as many users as possible.

By pursuing the above approach, we will provide sufficient time to permit additional information to be obtained on the usefulness and cost of providing remote sensing data. We will also guarantee the continuity of data for a sufficient time in the future to match any known foreign competition and to satisfy the needs of the user community.

MANUFACTURING IN SPACE

The United States, Russia, Germany, and Japan have conducted, or are planning to conduct, scientific experiments in space with various materials. This area of the space program is at a very early stage of development, and no one appears to be able to state exactly what the costs and benefits are of manufacturing various products in space.

Pharmaceuticals and semiconductor crystals appear to be the likeliest commercially viable products.

In addition to manufacturing products in space, the results of the initial experiments on materials in the absence of gravity may also improve the manufacture of Earth-based products by providing a better understanding of the effect

of gravity upon various materials as they are processed.

CONTINUING OUR EXPLORATION OF THE SOLAR SYSTEM

Mr. President, the exploration of the solar system increases our scientific knowledge, adds to our understanding of the Earth, raises the level of our technology, is a source of national pride and international prestige, and fits our pioneering heritage.

Furthermore, it is carried out in fulfillment of the first stated objective of the National Aeronautics and Space Act of 1958; namely, "The expansion of human knowledge of phenomena in the atmosphere and space." From the viewpoint of NASA's budget, it is not a large amount of money. Clearly, this effort should be continued.

Recently the two Voyager spacecraft passed by Jupiter and Saturn and gave us the first detailed look at both of these planets. Voyager II is now on its way to an encounter with Uranus in 1986 and Neptune in 1989.

Thus, by the end of this decade, all of the major planets and their moons will have been visited by unmanned spacecraft, with the exception of Pluto. However, we have just begun to understand the solar system. Not only should we be planning additional planetary missions, but we should also be planning missions to some of the comets and asteroids as well.

In a congratulatory message sent to the Voyager team earlier this year, President Reagan stated:

No other area of endeavor so galvanizes and inspires the American spirit as the conquest of space.

Unfortunately, these fine words have not been matched with needed funding in this area. Quite the contrary, the United States recently withdrew from the joint International Solar Polar Mission in which the Europeans have invested so heavily in. This can hardly help our credibility on future international programs.

The United States has also missed the opportunity to send a probe to Halley's Comet during its closest approach to the Sun. Its next approach will be about 80 years from now. What is even more disturbing, the continued exploration of Jupiter and Venus, with the Galileo and Venus orbiting imaging radar (VOIR) projects, is in some doubt.

I believe that we can and must do better than this, that funding for our unmanned exploration of the solar system should be continued, and that the United States should be planning a major mission for 1992—the 500th anniversary of Christopher Columbus' landing in the New World.

DEVELOPING OUR BASIC CAPABILITIES TO OPERATE IN SPACE

Mr. President, we ought to take the long view about our use of space beyond the 1980's and proceed accordingly. The Space Shuttle is a step in the right direction. It is a reusable spacecraft which can transfer astronauts and payloads from the Earth to orbits several hundred miles above the Earth in an economically

more attractive manner than using expendable launch vehicles.

In addition to developing the Space Shuttle, NASA is also beginning to define the capabilities needed for an orbital transfer vehicle and a space station. These and other related capabilities will provide our Nation with the basic tools to expand our presence in space for commercial and national security purposes, and some of these capabilities could also be used to expand our exploration of the solar system.

Since about 40 percent of our satellites are placed in geosynchronous orbit 22,300 miles above the Earth's surface, another reusable vehicle, called an orbital transfer vehicle, will eventually be needed to transfer astronauts and payloads from the Space Shuttle to geosynchronous orbit. And, to allow the Space Shuttle to perform its primary task of transportation, a space station will be needed in orbit several hundred miles above the Earth. The space station will take over the Shuttle's in-orbit functions. This will include: Deploying, servicing, and retrieving satellites; berthing, maintaining, and refueling the orbital transfer vehicles; and performing various experiments in space.

FUTURE CHALLENGES

Mr. President, my comments should not be interpreted to suggest that the benefits to be gained by expanding our use of outer space will come automatically or easily. There will be challenges of a technological nature and policy issues that we will need to address.

For example, the Space Shuttle is still an experimental vehicle. Much still remains to be done before it can be viewed as operational. When it becomes operational, we will face other questions such as: Who should operate it, what should the pricing policy be for commercial launches, how many Shuttle orbiters will we need, how long will we have to have expendable launch vehicles, and so forth.

In the area of space science, how do we pick up the pieces and resume our policy of international cooperation after canceling the U.S. spacecraft for the joint United States-European International Solar Power Mission?

In the area of space applications, what is the best way for us to help less developed countries use space for various commercial purposes, and should we go to the U.N.-sponsored conference UNISPACE 1982?

Another area of concern is assuring that NASA has an adequate work force to perform the tasks that ought to be done to maintain our preeminence in space. It is essential that NASA have positions available to reinvigorate the work force in a rapidly changing technical environment, and to halt the increasing average age of agency personnel.

Without a steady influx of new people, NASA will be without the capacity to accomplish the research, development, and management tasks essential to maintaining leadership in space technology.

One final point on the personnel issue. A prerequisite to attracting and retaining new and outstanding talent is a rec-

ognized national commitment to a comprehensive space program such as the one I have outlined above.

All of the tasks that I have mentioned could be accomplished during the next 10 to 15 years without requiring a large increase in future funding for NASA. In fact, NASA's budget would continue to remain less than 1 percent of the overall Federal budget.

What is required, is a halt to the further decline in NASA's budget, and to provide NASA with an annual level of funding in the future which is approximately constant and equal to its current budget, adjusted for inflation.

We ought to recognize that our civilian space program is not just another line item in the Federal budget. Not all Federal expenditures are the same. Some, like the space program, are investments that will provide many long-term benefits, and because of this distinction, it is vital that we halt the decline in support for the space program which has occurred over the past 15 years.

Mr. President, President Kennedy recognized the importance of our civilian space program and made the decision to send men to the Moon by the end of 1969. In 1962, Kennedy stated:

Our leadership in science and in industry, our hopes for peace and security, our obligations to ourselves as well as others, all require us to make this effort, to solve these mysteries, to solve them for the good of all men, and to become the world's leading space-faring nation.

At the present time, we are the world's leading space-faring nation, and it is my hope that we will remain so in the decades ahead.

THE U.S. RESPONSE TO BREZHNEV'S PLAN FOR WORLD DOMINATION

Mr. ARMSTRONG. Mr. President, Communist Party Leader Leonid Brezhnev believes the U.S.S.R. can bring America to its knees by 1985. This belief is not based on ideology or bluster. And Brezhnev is not daydreaming. He has a definite plan.

If we ignore his plan, or fail to effectively counter, it could succeed.

At a secret meeting of Warsaw Pact leaders in Prague, in 1973, Brezhnev predicted that by 1985 the Soviet Union would be able to cut off the economic lifeline of the West and, thereby, obtain the Communist goal.

He told his Communist colleagues:

Our aim is to gain control of the great treasure houses on which the West depends: the energy house of the Persian Gulf and the mineral treasure house of central and southern Africa.

Brezhnev's words lend ominous significance to Soviet aggression in Afghanistan, the Soviet military buildup along the Iranian border, Soviet activities in Iraq and Syria, and the presence of thousands of Soviet and East German military advisers in South Yemen, strategically located on Saudi Arabia's vulnerable southern flank.

It is not just oil that is endangered by the Soviet grasp for an economic stranglehold on the West. Economists and industrialists have identified nine

basic raw materials which are absolutely necessary for an industrial nation to provide for its day-to-day civilian life, let alone its military defense. Foremost among these are industrial metals such as cobalt, platinum, manganese, and chromium. Cobalt is indispensable for mining operations and for manufacturing machine tools. Manganese is essential for hardening steel, and for producing dry cell batteries. Stainless steel cannot be produced without chromium. Platinum is essential to the manufacture of jet engines.

America must import nearly all of these critical minerals, mostly from African countries that are either occupied or threatened by the Soviet-financed Cuban Afrika Korps of more than 20,000 troops.

Oil and other strategic materials do not do us any good until they are delivered to our shores. That is why the Soviets are attempting to gain control of strategic waterways such as the Panama Canal. The importance of the Panama Canal to international trade, and especially to our own economy, should make us all the more concerned about the presence of hundreds of Soviet and East German advisers in Nicaragua, and the thousands of tons of Soviet military equipment that are being delivered each month to Nicaragua and, through Nicaragua, to the Communist guerrillas in El Salvador.

THE SOVIET MILITARY BUILDUP

The key to Brezhnev's plan is for the Soviet Union to develop a conventional military superiority so overwhelming that the U.S.S.R. would be able to seize and hold the resource areas vital to the West, and a strategic nuclear superiority so intimidating the United States would be deterred from striking targets vital to the Soviet Union.

In order to implement the plan the Soviets, for the last decade and a half, have engaged in the greatest arms buildup in world history. They have been spending nearly three times as much of their gross national product on the military as we have.

This unprecedented Soviet military buildup has borne impressive fruit. The Soviets now lead the United States in virtually every measure of military strength, sometimes by breathtaking margins:

The United States has 16 Army and 3 Marine divisions. There are 180 divisions in the Soviet ground forces.

The Soviets have built as many tanks since 1970 as there are tanks in the entire U.S. Army. Overall, the Soviets have a 50,000 to 10,500 advantage, and an even greater qualitative advantage, since most U.S. tanks were built before 1970.

The Soviets have a 6-to-1 advantage in artillery pieces, a 4-to-1 lead in armored personnel carriers, a 2-to-1 lead in fighter aircraft, and a 3-to-2 edge in antitank missiles. In addition, the Soviets have fielded whole families of weapons systems, like the Katyusha "Stalin organ" rocket launcher, for which there are no counterparts in the U.S. Army.

Even on the high seas, the U.S. Navy is outnumbered and in danger of being

outgunned. Our Navy has 189 cruisers, destroyers, and frigates, compared to 275 in the Red navy. They have 266 attack submarines to our 80, a better than 3-to-1 advantage.

Soviet superiority is greatest where it counts most. It would take us nearly 2 weeks to move just our lightest division, the 82d Airborne, to the Persian Gulf in the event of a crisis there. The Soviets could move at least 10, and perhaps as many as 20 divisions, most of them armored, to the scene within that period of time.

With that kind of power projection capability, the Soviets seem very capable of meeting with the Brezhnev timetable.

While the Soviet Union has been leaping forward in military capability, we have been falling backward. In 1964, the Air Force had 3,538 fighters and 1,364 bombers. Today, the Air Force has 2,982 fighters and 403 bombers. In 1964, there were more than 600 ships in the Navy, compared to just 355 today. The Army had 971,000 soldiers under arms in 1964, compared to just 776,000 today.

The reason for this relative decline is not hard to find. In 1964, we devoted 43.5 percent of the Federal budget, and 8.4 percent of our gross national product to national defense. By last year, defense spending had fallen to 23.1 percent of the budget, and just 5.2 percent of GNP.

If we are to derail the Brezhnev timetable, we will have to spend more for defense than we have been spending for the last decade. There simply is not any other way to rebuild our defenses. Our task will be especially difficult because it will take a lot longer and cost a lot more to try now to do the things we should have done but did not do over the last 10 years.

In the long run, America's future will be determined by our faithfulness to our ideals, the strength of our economy, the ingenuity of our diplomacy, our willingness to strive and sacrifice to achieve excellence in science, education, and other fields. And, perhaps, our national sense of purpose and destiny. But military power, sufficient to deter war or to win if necessary, is absolutely essential. Our freedom and very survival depend on such power.

SPENDING DEFENSE DOLLARS MORE WISELY

To achieve a strong response capability will be costly and we must spend wisely.

Just as we must have a strong defense in order to keep our economy strong, we must have a strong economy in order to maintain a strong defense. Only if our economy is healthy and growing can we afford the sustained military buildup that will be required to lift the shadow of war from our doorstep.

It is arrant nonsense to assert, as some have, that because of the uncertain state of our economy, we cannot afford to spend more for defense. If we cannot protect our industrial lifeline, there is no hope of economic recovery. But it is equally wrong to argue that all else should be sacrificed to the defense budget. If we try to increase defense spending too much too fast, without regard for its impact on our prospects for economic recovery, we will find we cannot sustain

real growth in the defense budget, and the gains we thought we were making will prove illusory.

In other words, we cannot talk about economic recovery and national defense as if they existed apart from one another. They are opposite faces on the same coin. If we do not rebuild our economy and our defenses together, we will be able to restore health to neither.

The defense budget, in fact, is even more vulnerable to the ravages of inflation than the rest of the Federal budget, or your family budget. The Consumer Price Index increased 30.7 percent in the last 4 years. But the cost of defense purchases increased 41.8 percent in the same period. However bad inflation has been to you and me, it has been half again as harmful to our defense efforts.

Our plans to rebuild our defenses will be thwarted if inflation is much higher than we expect. President Reagan's plans for 7 percent real growth in the defense budget each year for the next 5 years are based on some very optimistic assumptions about inflation. If the rate of inflation through 1985 is as high as the Congressional Budget Office estimates, two-thirds of the President's proposed gains in defense spending would be wiped out. And CBO made its estimates before we discovered we could be as much as \$100 billion short of our goal of a balanced budget by 1984.

It sounds like a contradiction, but it could be that the only way to preserve real growth in the defense budget in the critical years ahead is to spend less than the President has proposed, at least initially. We have to get inflation under control. That cannot be done without balancing the budget, and the budget cannot be balanced without some reduction in the proposed increase for defense.

There are other sound reasons for thinking carefully before we commit huge sums of money to new defense programs. Not only did our military forces wither in the 10 years of neglect that preceded President Reagan's election, but so did the defense industrial base on which we rely to produce the weapons we need. Hundreds of subcontractors and thousands of parts suppliers have left the defense business. Many of the prime contractors are in ailing financial condition, and their production facilities are aged and decrepit.

Because of the inefficiencies that have developed, it can take as much as 3 years from the time the order is placed for a fighter plane to be delivered. It simply is not possible to try to increase defense production across the board without setting off a scramble for resources and skilled workers that will bid up the price of weapons systems faster than the already horrendous rate of defense inflation. In the near term, the result will not be more weapons, just more expensive weapons.

The Defense Department is perhaps the best managed of all Federal agencies, but that is like being the fastest in a three-legged race. DOD is a bureaucracy like other Federal bureaucracies, and billions of dollars are squandered each year through duplication, waste and maladministration.

President Reagan understands the problems we have been having with the defense industrial base, and with the management of the Department of Defense itself. He has ordered a study of comprehensive reforms of how we buy weapons, and how we run the Department of Defense. But the Reagan reforms have to be implemented, and they have to have time to work. If we make major commitments to new weapons systems now, under the old processes, we cannot avoid wasting billions of dollars we cannot afford to waste which could have been saved if we had waited until reformed procedures were in place.

We also need to rethink our strategy and our defense priorities. The lion's share of American military planning is based on repelling a Soviet thrust into Western Europe. But it makes more strategic sense for the Soviets to try to destroy the West by grabbing a stranglehold on the vital raw materials we import. That is what Brezhnev and other Soviet leaders say they intend to do, and that is in fact what they have been doing. Would it not make more sense for us to plan to meet the Soviet thrusts where they have been occurring rather than to devote most of our resources to repelling a thrust that probably never will come?

Furthermore, by some measures, the United States has been spending more to defend Western Europe than the Europeans have been spending. That was justifiable at the end of World War II, when Europe was prostrate and we were, relatively speaking, omnipotent. But it is hardly justifiable today, when the economies of many Western European countries are in better shape than our own.

The magnitude of our commitment to the defense of Western Europe is especially hard to justify in view of our unilateral assumption of the responsibility for defending Middle Eastern oil supplies. The United States would suffer greatly from an abrupt cutoff of Persian Gulf oil. But the Europeans would suffer much more. We import less than half the oil we use, and less than half the oil we import comes from the Persian Gulf. But the Europeans import nearly all the oil they use, and most of their imports come from the Middle East. Yet every last soldier in the rapid deployment force is an American. If we are to assume the responsibility for defending the oilfields, the Europeans should reciprocate by spending more on their own defense.

Finally and most important, we need to come to grips with the consequences of the technological revolution our Armed Forces have been undergoing. Congressional pacifism and parsimony alone cannot explain why our force structure has shrunk so much.

Although defense spending has declined enormously as a percentage of Federal outlays and of GNP, we are spending about as much, in dollars adjusted for inflation, on defense today as we did 30 years ago, or at any point within the last 30 years. But we are getting a lot less for the money we spend. The chief reason for this is the skyrocketing price of acquiring and operating the highly complex weapons systems we are buying today. While 10 years ago, it cost \$3.3 million a copy to buy what was

then the chief Air Force air superiority fighter, the F-4, today, we are replacing the F-4 with the more capable F-15.

But in constant fiscal year 1972 dollars, the F-15 costs \$8.1 million, more than twice as much. The absolute cost of maintenance has gone up by a comparable amount, because the F-15 has more things that can go wrong than the F-4, and they take longer and cost more to fix.

The inevitable consequence of procuring these expensive systems is that we will have far fewer of them. Not even the substantial boosts President Reagan has proposed for defense will be enough to keep forces at present levels if the cost of the weapons we buy continues to double, in absolute terms, every 6 or 7 years. If the shrinkage in force structure that will occur if we continue to procure only high-tech systems seems too much to bear, we should consider buying simpler weapons, but many more of them. Neither step is a step we should take lightly, or without careful consideration within the executive branch, Congress, and in the country.

THE MOST IMPORTANT DEFENSE PRIORITY:
PEOPLE

There are some steps we can and must take now to strengthen our defenses while we are thinking through these important questions. Because of our fixation for weapons procurement, we have given short shrift to the servicemen and women we expect to use those weapons. Military pay and benefits and training funds have been cut back in order to get more wheels on the ramp. This is as self-defeating as it is unfair to the men and women who have sacrificed so much to wear the uniform of their country.

Often more than half the cost of a weapons system is expended to get a 5 percent increase in capability. But because we have not been paying skilled military personnel enough to keep them in the service, and because we have not been training their replacements as thoroughly as we should, our servicemen cannot get maximum performance from their weapons, and the money we spent to get it is wasted.

Congress finally has recognized the damage done by its decade of neglect of the needs of our servicemen. President Reagan signed into law earlier this year a substantial military pay raise. But our military manpower problem will not be solved until we also enact a new GI bill of rights to attract the best and the brightest of our young people into military service.

In addition to being perhaps the most effective step we could take to strengthen our defenses, the GI bill also could save us a considerable amount of money. There would be no cost at all for at least 2 years, and the countervailing savings that could be generated in the Department of Defense as a result of having a smarter force, coupled with the reductions that could be justified in other Federal education loan and grant programs, could make the GI bill a money-making proposition for the taxpayer for years to come.

We also need to increase our purchase of ammunition and spare parts for the weapons we already have. If a war

started today, our Armed Forces would only have enough ammo to fight for 2 weeks. Our stocks of ammunition and spare parts can be replenished without the inflationary consequences of some other type of procurement spending.

These are important questions. In the weeks ahead, Congress must come to grips with specific proposals about how we can get more bang for our defense bucks, proposals involving a rethinking of our strategic options, reform of the weapons procurement process, and reorganization of the Department of Defense.

In the meantime, I would like to hear from you. I would like to know what you think can be done to stretch our defense dollars. Please write to me here in Washington or at one of my Colorado offices. We all need to get involved if we are to keep our country strong and free.

We are in a period of great danger, but I think we will pass through it safely. No foe has ever been able to match Americans in vigor, imagination, or in our determination to defend our homes, our families, and our freedoms. Our difficulty has not been in responding to threats, but in recognizing that a threat is being posed. We have tended to be too peaceful and too trusting for our own good. That has certainly been the case for the last 10 years. We deluded ourselves into thinking that Soviet intentions were as noble as our own. But now we know better. We know we need to rebuild our defenses if we are to preserve peace and freedom in the world. And because we know what we have to do, I am confident we will get the job done.

VETERANS DAY

Mr. CANNON. Mr. President, November 11 was Veterans Day and was witnessed by celebration by veteran groups throughout the land.

I know everyone talks about veteran accomplishments at that time, but some say it better than others. Mr. Bill Morris, the commander of chapter 3 of the DAV in Las Vegas did a superb job of laying it on the line, and, accordingly, I was to share it with my colleagues. Mr. President, I request unanimous consent that his article be printed in the CONGRESSIONAL RECORD.

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

[From the Las Vegas Sun, Nov. 8, 1981]

VETERANS' NEWS BRIEFS

(By Bill Morris)

This column is in honor of Veterans Day, Nov. 11, 1981.

"It was the nakedness of Bryce's left calf-bone that bothered me. Every strip of flesh and muscle had been torn away, so that the splintered bone looked like a broken ivory stick."

That ghastly description of a war wound came from the pages of Philip Caputo's Vietnam combat novel, "A Rumor of War." The scene is haunting. It's brutal. But it's a scene that's been repeated countless thousands of times in the wars America has fought.

Such scenes echo the pounding of German artillery as it turned the trenches of WWI into rivers of precious American blood. They echo the crashes of Japanese Kamikaze

planes that transformed the decks of American ships into fields of flame.

And they echo the firing of communist machine guns, as they mowed down young Americans on the banks of Korea's Yalu River. Over and over again, the horrifying scenes of disabling injuries have been repeated in the eight wars and other military actions our country has been forced to fight.

On Veterans Day, 1981, the veterans ask all of our Nation's citizens to remember the courageous men and women whose blood paid the price for peace.

They call on our country's people to understand that war is seldom like the movies on TV . . . films that focus on the glory of war. The sudden arrival of death or permanent disability is not clean or fine, or glorious. War is ugly. War is hell. They do not show the reality of combat.

The reality of war is like Caputo's description of a shattered leg bone. In another period of history, it was the horror of a Civil War soldier crawling across the forest floor toward death, as described in one of Stephen Crane's stories.

War is young Americans being slaughtered and maimed. It's other young Americans mopping from their faces the sweat of fear . . . fear that their number will come up next. These are the men and women who have paid the price for peace, and peace isn't cheap.

Veterans Day is their day. And you can be sure America's 30 million living veterans recall the blood and sacrifice that Veterans Day commemorates. They gave greatly of themselves, risking death and disability, to purchase peace for their country.

The birthright we Americans enjoy . . . a heritage most of us take for granted . . . was bought with anguish and pain.

A million and a quarter of our finest young men and women sacrificed their lives to defend our right to choose our own leaders at the ballot box. Countless thousands will never again enjoy peace of mind, because of mental wounds they suffered while fighting to assure that all of us can worship as we wish. Thousands will forever blame themselves for letting their buddies be killed. Thousands will forever remember the sight of a small Viet Nam child throwing a grenade into the middle of their platoon.

America's veterans had to interrupt their lives to answer their country's call to duty. They left their jobs, their schools and families behind to risk death and disability on the field of battle, in the air or on the sea.

Today, too many young Americans view military service as a responsibility to be avoided at almost any cost. But, they who have served know differently. They know it is not an easy task to be a soldier, a sailor, an airman or a marine when our country is at war.

As we look at today's world, we understand that it isn't easy to wear the uniforms of our Armed Forces even during peacetime. Just in the past few months, two Soviet-backed countries have attacked American aircraft.

Our military officers and bases have become targets for terrorist assaults. And, at least five times this year, communist troops have instigated fire fights with American forces stationed on the demilitarized zone separating North and South Korea.

It's not child's play when you have to face enemy fire . . . when you have to watch your comrade die in the arms of a corpsman . . . you see another human being fall after you've pulled the trigger.

Dealing with such terrifying realities is no everyday job. America owes a sacred debt to those who have purchased peace through such sacrifices.

This is what Veterans Day stands for.

The next time you see a veteran in a wheelchair, or walking with a white cane, or lying in a hospital unable to move for the rest of his life or see a Vietnam veteran

searching for his identity, don't turn your back—instead smile and say, "Thanks for keeping us Free."

SMALL TRANSPORTS FOR THE LONG HAUL

Mr. CANNON. Mr. President, my frequent trips from my home State of Nevada to the Capitol continue to remind me of the need for further improvements in the level of air service available to many of the small communities and cities of our country which are not among the top 20 or so of the Nation's metropolitan centers. When the Congress 3 years ago supported my bill to deregulate the airline industry, we broke down the stifling regulatory barriers to open competition, which is essential to attainment of more extensive and economical services for all communities. We have achieved important results provided by many new entrants into the market and many new economies, admittedly constrained by the explosion in fuel costs that took place during that period.

Beyond the past regulatory barriers, there still exists severely limiting technological and attitudinal barriers which I will point out now.

Most conspicuous is the fact that we do not have small transport technology developed to the point that commuter class carriers can offer the quality of aircraft service for small communities that has long been routine for major intercity travel. This means pressurized cabins for overweather flight, stand-up headroom, turbofan powerplant performance and reliability, state-of-the-art electronic communications and navigation equipment, nominal cabin amenities, safety, and schedule reliability.

Our country is suffering in two ways because of the lag in appropriate commuter class technology development. For one thing, many travelers are denied the quality of air service contemporary technology should make available. For another, our commuter carrier industry is forced to go abroad for purchase of most of its new small transports at a time when our employment and economy urgently need revival in about every domestic sector.

I referred also to an attitudinal barrier restraining the development of small community air service. There is a deeply imbedded mind-set throughout the aviation industry which has decreed that travelers between two nonmetropolitan, or nonhub cities, will forever be denied direct service between smaller cities of origin and destination simply because the volume of traffic between such cities cannot economically support service with large modern transports.

In that scenario, the tens of millions of those travelers are programmed for a short haul commuter flight from origin to a regional hub city, transfer to a large transport for travel to another regional hub, and connection there to another commuter class flight to destination. This can often mean doubling back in direction of travel at either or both the origin or destination segment of the itinerary. It can mean missed connections, long delays, and badly timed origin

departure and destination arrival times. It can mean overloading the airplane handling capacity, or slot positions, at major hubs. It imposes the inescapable economic burden of unwanted short haul segments on long haul travelers.

With that mind-set in place, we will never develop the small transport technology which will permit frequent direct service commensurate in speed and quality with that of trunkline carriers at affordable, if not equal, cost.

It was, therefore, very refreshing for me to read an editorial by Arnold Lewis in the September issue of *Business & Commercial Aviation*, which is chipping away at that mind-set. He cites testimony and eye-opening statistics provided at a Senate Commerce Committee hearing by Anthony A. duPont, designer of a proposed 30- to 44-passenger transport that can operate nonstop at transcontinental distances at mach 9 and provide competitive 100-mile segment performance from 3,500-foot runways.

Mr. President, I ask that this article by Mr. Lewis, captioned "The Long Haul Commuter" be printed in its entirety. It is my hope that NASA and other important segments of the aviation industry will take note and give careful consideration to the concept there discussed. Certainly my fellow citizens from Nevada communities will join me in this expression of an intolerable gap in the level of airservice available to them. This is a gap which airline deregulation will help to close if NASA moves forward aggressively with advanced small transport technology development and industry leaders break free from their previous mind-set.

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

THE LONG HAUL COMMUTER

It sounds daft on the surface—a commercial airline operating nonstop between Albuquerque, New Mexico, and Washington, D.C., several times a day with 30-passenger turboprop?

Corporate jets do things like that, but not commercial airliners. Everybody knows that when one wants to fly between Albuquerque and Washington, one must first fly from Albuquerque to Denver, then from Denver to St. Louis, and finally from St. Louis to Washington National Airport.

But wait a minute. Every once in a while someone comes up with a better idea—at least one that's worth exploring. That someone in this case is Anthony A. duPont, an aeronautical engineer from Torrance, California. He recently appeared before the Senate Commerce Committee's science, technology and space subcommittee advocating what he described as a "new concept which could improve air service dramatically."

What he didn't say was that the concept also could cut right into the heart of corporate aviation by providing point-to-point transportation to localities not currently served by scheduled airlines.

"You cannot today fly nonstop from Albuquerque to Washington, D.C.; or from Las Vegas to New Orleans; or Buffalo to Phoenix; or Charleston to New York; or Huntsville to Los Angeles; or Indianapolis to San Francisco; or Los Angeles to Wichita; or Detroit to Seattle," duPont told the subcommittee. "And there are many other city pairs where CAB passenger statistics indicate demand of large economic proportions for nonstop service where there is none today," he added.

DuPont calls it an "important gap in airline service" and notes that 53,000 people

made that Albuquerque-Washington trip in 1980. "With this many passengers, a 30-seat aircraft could offer four trips a day each way. A 100-seat DC-9 or 737 could offer a single daily round trip, but the 1,727-mile distance is more than is normally flown by these 100-seat aircraft."

The 30-passenger aircraft duPont envisions would be too small for commercial transport builders to develop, and might be beyond the technological reach or interest of general aviation manufacturers. He sees an FAR Part 25 aircraft with a supercritical wing and an advanced engine installation "with thrust vectoring to achieve a high cruising speed without incurring fuel consumption penalties.

"It would be more fuel-efficient than even our newest large airliners or commuter aircraft on either a long or short (100-mile) flight." DuPont quotes 75 seat-miles per gallon on a transcontinental trip, and 37.5 seat-miles per gallon on a 100-mile flight, "which is still more fuel-efficient over the 100-mile segment than any current turboprop aircraft, which were specifically designed for this type of short-haul service."

But the new generation of 35-passenger commuter aircraft can achieve such fuel efficiency over a 100-sm segment.

DuPont also believes his concept must include "some V/STOL features" to permit the use of discrete runways no more than 3,500-feet long at major hubs in order to increase airport capacity and allow for greater frequencies of service.

"With such a unique combination of speed, range, economy and short-field performance, present passenger-load figures indicate that passengers riding between 20 and 30 percent of the airline miles traveled today in the United States would be served more promptly, economically, and with less fuel than with present aircraft," duPont said.

An analysis of the "low-density airline" market, he adds, "shows there is a current market in the United States for at least 1,200 such aircraft and an estimated market abroad for an additional 4,000 airplanes."

Furthering his analysis, duPont selected from the CAB's list of the top 1,000 city pairs (in terms of revenue passenger-miles) those cities that could be served by two to eight round trips per day with 30-passenger aircraft with a 55-percent load factor.

From that list he deducted 50 percent of the traffic "as that which might be carried by larger aircraft between those cities requiring five to eight round trips with these (30-passenger) aircraft."

As a result, duPont said that "about 27 percent of the revenue passenger-miles (between those cities) could be conveniently flown with 30-seat aircraft. Examination of the Official Airline Guide dated March 1, 1981, shows that the great majority of city pairs selected in this manner have no nonstop service between them at the present time and that very few have more than a single one-stop flight (daily)."

An important assumption made by duPont was that only city pairs that board less than 100,000 passengers per year were candidates for service with the advanced 30-passenger aircraft. The 100,000 passengers represent only two and a half daily round trips in a 100-passenger aircraft, "which is not really considered adequate service.

"One DC-9 trip and five trips with the new aircraft would make 100,000 passengers per year, or two DC-9 trips and two trips with the new advanced airplane would make 104,000 passengers per year giving a six-flight-a-day or four-flight-a-day frequency (respectively)," duPont concluded.

Even if duPont's "special" aircraft could be developed, his concept would require fundamental changes in the air transportation system. Such changes would offer major and unique opportunities for today's commuter operators to become long-haul carriers

with small aircraft in what could be considered specialty markets.

On the other hand, implementation of the concept might have a significant impact on corporate aviation. But a network of 30-passenger aircraft that would serve the diverse array of destinations that currently attract business aircraft is highly unlikely.

Corporations have been forced to solve their own air transportation problems as a result of declining or nonexistent commercial airline services. Will they be willing to rely again on the commercial airlines (even specialized operators) to satisfy their transportation needs?

IMPACT OF THE FEDERAL R. & D. BUDGET ON THE HEALTH OF U.S. SCIENCE AND TECHNOLOGY

Mr. CANNON. Mr. President, on October 26 and 27 the National Academy of Sciences held an unprecedented convocation of the U.S. leaders in the field of science and technology. The purpose of this meeting, which was arranged by Dr. Frank Press, president of the National Academy of Sciences, was to review the Federal R. & D. budget for fiscal year 1982 and future years.

Some of the most prestigious leaders from academia, industry, and Government met under the auspices of the National Academy of Sciences to review the implications of the Federal R. & D. budget reductions in this fiscal year and the projected reductions in future fiscal years. This meeting provided an opportunity to exchange information on the administration's position with regard to science and technology. Based upon this exchange, the Nation's leaders were able to provide an indication of the impacts of the administration's new directions.

I need not convince my knowledgeable colleagues on the vital contribution that science and technology make in meeting our national security, economic, and social needs. I would encourage my colleagues to review the results of this meeting. It is a frank evaluation of what the budget reductions will mean for the future health of this Nation's science and technology base. Across-the-board budget reductions without any regard to policies, priorities, and programs will not serve the interest of this Nation.

Mr. President, I wish to include in the *RECORD* a summary of the conference by our Nation's science and technology leaders. The results of this conference should be extremely valuable to the Members of Congress, who must make budgetary decisions on the allocation of scarce Federal resources. I think the summary and statement are thoughtful and germane to our deliberations. I hope my colleagues will have a chance to review them in the course of deciding upon the Federal R. & D. budgets.

I ask unanimous consent to have printed in the *RECORD* the summary and statement to which I have made reference.

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

CONFERENCE ON THE RESEARCH AND DEVELOPMENT BUDGET FOR 1982 AND FUTURE YEARS SUMMARY

In brief, the purposes of the meeting, held October 26 and 27, 1981, at the National Academy of Sciences in Washington, D.C., were to:

Obtain factual information on federal budgetary plans for FY 1982 and beyond, from government officials directly concerned with science policy and with civilian research and development budgets;

Develop an informed dialogue among conference participants and with agency officials about the impacts of the prospective reductions;

Propose budgetary alternatives, for FY 1982 and for future years; and

Consider initiating reviews of the institutional structures and procedures for supporting research and development in the national laboratories and in the universities.

During his welcoming remarks to the conferees, Dr. Frank Press, president of the National Academy of Sciences, stressed that he had convened the meeting because he believed all could benefit from an informed dialogue, and, secondly, that he did not view the conference as the basis for confrontation with officials representing the departments and agencies. Dr. Press also stressed that he was acting as a convener of a number of key officials in government with leaders in research and development, and that it was not a meeting of the Academy.

On October 26, the conferees met with representatives from six governmental departments and agencies. A number of conference participants served as panelists for discussion. Comments from the floor followed each panel presentation. On October 27 the conferees met in executive session, at which time they adopted a consensus statement. [The consensus statement and the list of participants are attached.]

This summary first discusses the current and prospective budget plans, as presented by the governmental representatives and as shown in the analysis by Dr. Willis Shapley, consultant to the American Association for the Advancement of Science. Secondly, it describes impacts—immediate and beyond—of the prospective budgetary reductions. Finally, it reports on possible involvements by the scientific and technical community in governmental decision making.

CURRENT AND PROSPECTIVE BUDGET PLANS

Overview of the current budget and its status

The FY 1982 budget presented by the Administration in March 1981 reduced the totals proposed for research and development by the previous Administration, but it generally maintained the principles of federal responsibility for longer-term research and those applied research and development activities that support recognized federal missions such as national security. The exception in the March budget to these principles was the severe reduction in support for basic research in the social sciences. However, in September, the Administration proposed a further reduction in the FY 1982 budget—the so-called "12 percent across the board cut." That proposal would reduce the \$42.2 billion of R&D appropriations request of the March budget by \$3.1 billion—\$1.0 billion from the Department of Defense (DOD) and \$2.1 billion from all other programs. Of the \$42.2 billion, about \$5.5 billion is ascribed to basic research and that amount would be cut by about \$600 million.

In constant 1980 dollars and applying the Administration's annual inflation rate of 9 percent, the percentage difference between the 1980 budget and the proposed September budget is: DOD, +26 percent; NASA, -7 percent; DOE, -29 percent; NSF, -17 percent; HHS, -19 percent (NIH, -18 percent). For basic research, the overall reduction is 11 percent.

The present actions of the Congress on the FY 1982 appropriations requests call for reductions from the March budgets of lesser magnitude, being a reduction of about \$1.0 billion from total R&D funding and taken from the DOD budget. While some other re-

ductions have been made by the appropriations committees, there have also been increases totalling about \$200 million. The Congressional actions are not complete; the government is currently operating on a continuing resolution empowering agencies to expend at levels and rates consistent with 1981 appropriations levels. The Administration, however, has further instructed agencies to expend at rates consistent with the proposed September revisions to the 1982 budget. The Administration proposes to set these levels formally through the deferral process, and deferral requests were being sent to the Congress by the Administration in late October. The resolution of the 1982 appropriation process will require much further discussion between the two governmental branches. Several participants at the October 26-27 Conference, including Administration officials, indicated that the outcome will be negotiated, and that the conferees should not assume that the 12-percent reduction proposals will be enacted as such.

Views of administration officials

The Administration, through the Executive office of the President, was represented by Dr. George A. Keyworth, director of the Office of Science and Technology Policy, and Mr. Frederick Khedouri, the Associate Director for Natural Resources, Energy, and Science in the Office of Management and Budget. Dr. Keyworth cautioned against assuming the worst possible scenario concerning the budget. He indicated that he felt that, overall, science was healthy; that the Administration would still adhere to a philosophy of supporting research; but that it would take a more critical attitude toward demonstration programs, especially where the civilian sector might be expected to do the job. He felt greater attention needed to be placed on identification of research areas of maximum promise, with the assumption that these would be supported. Maintaining the strength of top research universities, supporting high quality research, and responding to instrumentation needs were all urged by Dr. Keyworth.

Mr. Khedouri acknowledged that the budget outcome for 1982 is unclear; there will be negotiation and the gap between the Administration and Congress will narrow. The Administration's aim is to establish targets and to stick to goals; there will be active, not passive, response by the Administration to revisions of targets, by the Congress or by revised economic forecasts. This will require two to three years of hard budget decisions. He indicated that the usual budget process might have to be abridged over these years, but that the framework for research would be protected. He advanced the notion that from his perspective the issue was about a change in rate of growth of the budget rather than absolute reductions. Mr. Khedouri asserted that, overall, there was some real growth in research; and that basic science was faring well compared to demonstration and social programs. One should not assume, however, that there can be, or should be, more and more science support from the government. The scientific community could help in reallocation.

Research agencies

The research and development leaders from NSF, NASA, and the Departments of Energy and Health and Human Services (HHS) made a number of points concerning the budget proposals, including that they are using different tactics to cope with the proposed reductions.

National Science Foundation: The NSF, for example, is attempting to shield basic research in the mathematical, physical, and engineering sciences to a greater extent than some other areas because of the underfunding over a decade in these disciplines. Dr. John Slaughter, Director of the NSF, said that the National Science Board (NSB) and

key NSF executives recognize NSF's critical role in research and that in this period of tight funding the catalytic effect of NSF funding—in prompting funding by other agencies, industry, and other private sources—needs exploration and emphasis. The NSF will support research in the social sciences. The statement of the NSB on the social sciences was stressed.

Further, the NSF has continued to be concerned about instrumentation and has led an interagency group considering ways to increase instrumentation funding. NSF is avoiding applying "simplistic" formulas, such as ratios of the existing grants renewed to new ones funded.

However thoughtful these tactics, there will, realistically, be significant effects on money actually available and the nature of what is funded. For example, in NSF's case, some 60 percent of its grant money is committed to projects having another year or more to run.

National Aeronautics and Space Administration: NASA is terminating, or grossly reducing, specific programs, rather than applying across-the-board cuts. Which program to cut is a derivative of several variables, including the long-term gain for science generally as, for example, the broad gain in astronomy promised by the orbiting later this decade of the Space Telescope. Hans Mark, Deputy Administrator of NASA, made several comments about the budget situation. It is only partly true that Shuttle costs are reducing funding for science. There are severe problems of inflation, exacerbated by the lack of technical craftsmen and skilled workers, affecting not only the Shuttle but all aerospace procurement, e.g., Atlas Centaur launch vehicles. NASA recognizes that procurement and development costs associated with the Shuttle obscure other elements of the budget and has sought and received from OMB an agreement that the Shuttle be budgeted separately from the rest of the agency's programs.

NASA has told OMB that it cannot operate a planetary program with only one project each decade, and that this activity should be supported properly or not at all. Other research missions, e.g., aeronautics research, are being viewed in a similar fashion. Mark said that he and Administrator Beggs want the advice of the scientific community. With regard to cooperative missions, such as the Solar Polar Mission, it was difficult to generate diplomatic support, since in the broader context many agreements are honored neither by the United States nor by the Europeans. Mark shared the frustration of losing support for projects with interagency funding, such as the National Oceanic Satellite System, and the difficulty of turning the high public interest in space into political and budgetary strength for the program.

Department of Energy: The budgetary situation in the DOE is complicated by the announced plan of the Administration to abolish the department. There are no decisions and Dr. Alvin Trivelpiece, Director of the Office of Energy Research, reported no emerging preferred alternatives. At present, the agency plan is to effect a percentage reduction across all elements of the department, including the large commercial-scale demonstrations, the basic energy sciences, and the high-energy physics programs.

The Energy Research Advisory Board has begun to look at the future roles of the national laboratories. DOE recognizes that universities use some facilities of the national laboratories, such as computers. The twin uncertainties of DOE funding in the basic sciences and the future of the Department are severely hampering the ability of laboratory directors and individual scientists to plan research programs.

Department of Health and Human Services: Dr. Edward Brandt, Assistant Secretary

for Health, in summarizing the situation at NIH, said that he recognizes that the proposed budget reduction will severely affect the policy of supporting an adequate number of new research grants each year and training clinicians for research careers; it will certainly affect NIH's special responsibility in biomedical research. Moreover, Dr. Brandt acknowledged that the current year cut was severe because of the commitments to continuing grants, and that level or reduced funding would severely affect basic biomedical research, with perhaps as much as a 40% reduction in new project starts. He offered no solutions. The Department is not planning for drastic responses to the proposed budget reductions, e.g., elimination of a NIH institute, because of the low likelihood that such a step would be sustained.

Department of Defense: From a cross-agency perspective, there is little likelihood that reductions in basic research funding will be offset, wholly or in part, by increases in DOD funding for basic research. The reasons include the uniqueness of the DOD mission and, more heavily, the several years of constrained spending that DOD now wishes to recoup. DOD increases will be scrutinized by Congress; further, sustaining basic research under the combined pressure, of anticipated reductions in the rate of growth of the DOD budget and new or intensified development programs will be difficult.

Other agencies

It was noted that the effects of the costs extend not only to the immediate plans of the larger, more visible R&D agencies, but may be—in fact, are—more severe for the smaller agencies; for example, a proposed 50 percent reduction in EPA's research budget; a 15 percent cut in NOAA's budget, and so forth. A danger is that in the effort to restore funding for the more prominent research agencies that those severe cuts in the smaller, less visible agencies may be sustained.

It was also noted that some research is the result of "piggybacking" and may be lost through what seem, on first order, to be non-research cuts. This piggybacking is particularly illustrated in the social sciences: demographers in census, economists in assembling national economic accounts, anthropologist in international exchange programs, and so forth depend on other programs as the framework for their research efforts. As these activities are reduced in scope, the effect on social science research will be severe.

IMPACTS: IMMEDIATE AND BEYOND

The effects of federal budget reductions—namely the proposed September levels—can be examined in several ways: by the effects on the basic research enterprise, per se; by the effects on national goals, including national security, improved productivity, availability of adequate number of scientists and engineers, and by the ability of the industrial R&D endeavor to offset reductions in federal R&D work and support. These and many other effects were addressed by many of the conferees. A number of the major points made by conferees are summarized below.

Effects on the basic research enterprise

American science, especially its basic research component, is now appraised as generally healthy. However, slippage has been taking place in recent years. That is revealed in several ways, such as the erosion, vis-a-vis other research nations, of the historic American leadership in high energy physics and in astronomy. Virtually no part of a decadal strategy for space science research prepared in 1975 has been done. X-ray astronomy may in future years be dominated by observational work of European and Japanese Astronomers. Other nations will be sending missions to Halley's Comet; the U.S. will not. In high-energy physics, Europeans are leading in reporting experimental results, and, with the

money invested in new European facilities, that dominance will continue and probably widen. In any case, the implications of reductions in basic research support need to be faced early. Sustained reductions over several years will lead to a major change in the U.S. position vis-a-vis European nations and Japan.

Some participants in the conference did not share the view that the research enterprise was generally healthy and stressed that it is more fragile than planners in Washington realize. They further cited the quality of life in the laboratory here and the contrast in laboratory working conditions and resources in the United States vis-a-vis Europe. The behavior of the funding agencies is another indicator of problems for the research enterprise. Sustained underfunding of research has many ramifications. One outcome, given prospects for further reductions in successive fiscal years, is conservatism in funding extended projects: established operations may do better; new people will be denied programs and lost. It is a misconception to say that investigators whose funding is skipped for a few years can then come back.

Some agencies by virtue of their missions are more vulnerable to current and future reductions. For example, NSF, with most of its money allocated for grants, has less flexibility in responding to cuts than does DOE, which conducts a more heterogeneous research program, one that includes not only basic science but also development and demonstration programs. While there is greater flexibility in some agencies, there are also great pressures to continue investments in large scale demonstration plants. These pressures will inevitably affect those supporting longer-term research.

Some at the conference stressed the multiplier effects of budget cuts, stating that the system was in many ways taut, that small changes, up or down, in funding had pronounced impacts on all aspects of research, funding for procurement, manpower and training, and so on.

Mismatches: Budgeting and the Research System: Damage is done by the "mismatches" between the dynamics of government actions and the time constants of the research system. Government budgets change drastically, in amounts and within months. The basic research system generally operates in considerably longer time frames, typically several years; that is, the time needed to conduct an experimental program, to construct large facilities, to develop research teams that can work harmoniously and effectively, for a graduate student to complete a thesis. When mismatches occur between the timing of budget reductions or redistributions and those time constants of research, the effects can be severe—in sunk costs lost, in incompleting theses, in aborted careers in science and engineering. The majority of research performers have no reserves; universities have less funds to support transitions between grants. The results are severe dislocations when precipitate budget changes occur. Leverage effects are a consequence of these mismatches; that is, relatively small cuts having greatly magnified effects, in research productivity and in time lost.

Instrumentation: Instrumentation of research universities is now in quite bad shape, with apparently no immediate prospects for relief. Students are using obsolescent equipment. The first of several efforts over the coming years intended to reduce this problem, a \$75 million request by the NSF, was deleted in the March budget. An interagency effort to share the burden of instrumentation funding has produced an agreement among department and agencies that the instrumentation problem is serious; but, because of funding pressure, the outcome of any proposed budgetary initiative is in doubt.

Manpower: The decline in the number of

Ph. D's in physics is symptomatic of difficulties in the research system, given that, at the graduate level, training and education commingle with basic research. Despite a rough doubling of the GNP (1972 dollars) since 1963 and a substantial increase in the working age population, the number of Ph. D. graduates in physics will decline in the near future to pre-sputnik levels. That decline will directly affect the country's national security; that is, in having sufficient scientific and technical talent to develop new defense technologies.

N.H. training grants will be reduced substantially. Moreover, the government has no way to cope with the already evident decline in the number of physicians training for a basic or clinical research career. (Note: After the conference, the NSF fellowship support programs were reinstated by OMB in the FY 1982 request.)

National laboratories: The budget reductions are already severely affecting the national laboratories. Given future plans, some laboratories may be virtually dismantled or greatly reduced. Unique capabilities may be irreversibly damaged; thus, the dismantling of programs in planetary science may impoverish the Jet Propulsion Laboratory, even though JPL has taught the world a lesson in quality control. The role of the national laboratories needs examination, including the nature and quality of their basic research that is done and their relations with the research universities.

Impacts on national concerns: Productivity and national security

Research—basic work in the natural, social, and engineering sciences—is the country's major investment in the future use of its resources, most directly in providing fertile ground for new technologies that amplify the value of increasingly restricted resources. Without adequate investments in intellectual capital, there may be continuing erosion in the country's ability to compete internationally in high technology. The real growth of U.S. funding of basic research over a ten-year-period has been less than that of Japan, West Germany, and France. Data on expenditures for research and development in the industrial countries, such as those contained in Science Indicators, were cited, and supported with first-hand observations, by both industry and academic participants. Several conferees stressed that future international competitiveness require more, not less, investment in research by the government and by industry. A continued flow of trained manpower for industry and universities requires a strong governmentally supported research effort.

There should be collaboration between government, the universities, and industry; however, attitudinal changes were necessary to a more favorable spirit of collaboration. The tax measures recently enacted will help, but, when considering both government and industry investment, it should be kept in mind that the proportion of the national resources being directed to R&D is declining in the United States in comparison to some other industrial nations. The relationships of the budget actions to defense and national security were of concern to the conferees. The effect of sustained tight budgets in basic research on manpower availability and the general knowledge base on the nation will be pronounced.

Industry research

Industry couples directly to the basic research system in its concern with the health of graduate education; that is, in assuring the continuing production of people trained in research and fully conversant with the frontiers of fundamental science.

While a number of specific agreements between particular universities and industries exist or are being arranged, the amount of support by industry for academic research

particularly and university education generally is likely to be limited. Thus, a tripling over the next decade of industrial support currently directed to university based research would about equal the proposed federal cut in R&D funding for one year. There is no indication that industry can or will have the capacity to substitute for the government's historical role in the support of basic research. It is a misconception to believe that the scale of changes being proposed in the federal funding will be offset by industry's activity on campuses or in its own laboratories. Further, it should be kept in mind that industry will likely focus its increased support of research in universities on a few fields or disciplines, such as electronics and geology.

DECISIONS INVOLVING THE S&T COMMUNITY

As a first principle, the conferees agreed that several years of reductions in basic research funding will be damaging. However, given that overall budgetary reductions will occur in FY 1982, the issue is how to manage budget redistributions so as to protect the basic research system.

A number of the attendees at the conference asserted that a process or dialogue needed to be restored to the budget process. The root issue is participation by the scientific community itself in the decisions that are made: A measure of due process is needed. Barring that, we will get second-rate science, second-rate technology, and become a second-rate world power, said one participant. The problem to be faced, it was noted, is that the research system is now entering a negative growth cycle. How can we see to productivity in research in a period of chronic negative growth?

There is again a mismatch problem: between the day-to-day, often crisis environment of governmental decision making and the ability of the scientific community to mobilize and to prepare consentient advice. Whatever the difficulties and judgments—on the quality of programs, relative importance of different fields and subsets within fields, and so forth—are critical. NASA, for example, needs advice—political and scientific—as to what sort of institution it should be. Other agencies, such as DOE, don't have good standards as to what to support. For example, how many fellowships should there be and in which fields?

For its part, the research community needs sufficient notice of departures from previous budgetary trends, to allow corrections in the number of graduate students accepted, faculty positions offered, equipment purchased, major experiments, and so on. Does the government, for example, believe that "crisis budgeting," similar to the revised budget issued in September, will recur for several years?

In all, what is needed is an interactive, continuing exchange of information between the government's fiscal and science policy officers and the scientific and engineering community. No adequate mechanism to accomplish that now exists. As a corollary, there is now no apparent way to manage "an orderly retreat" from the present R&D effort, in lieu of "brute force" methods. As an example, can funds be set aside to provide for termination of grants, which, while small in amount, would lessen the dislocations of a transition, when it occurs, from full funding to no funding?

As to tactics, one way to conserve funds for basic research, to protect the enterprise, may be to combine the government's retreat from development and demonstration programs—those efforts that private sector should do, excepting those that are so costly and long term, such as fusion, that industry cannot support them—with increased funding for basic research.

STATEMENT

The conference on research and development was a meeting on October 26-27, 1981, of about 100 university officials, laboratory directors, industrial research executives, scientists and engineers, and individuals experienced in public policy, who were drawn together at the invitation of Dr. Frank Press, President, National Academy of Sciences. The conferees met to discuss the impact of the prospective budget reductions proposed by the Administration upon the Nation's scientific research capabilities. Officials of the Administration discussed their proposals with the group. Observers from the staff of the Congress and the press were present. The conferees reached consensus on the following:

The problems of the economy—inflation, high interest rates, industrial stagnation—have eroded research and development just as they have impacted other sectors of our society. The participants in the conference understand that the nation must pass through a period of restraint in public expenditures. Yet the proposed reductions in the President's September or Fall Budget will do irreversible damage unless longer term research, in contrast to development and demonstration, is protected.

It is the view of the conference that continued sound investments in research and development by the Federal Government are essential to our national goals, including public welfare, a strong national security, and a renewal of growth in productivity. Much of our economic growth over the last three decades is directly attributable to research and development that has been supported by both government and industry and even earlier investments in research. Because of the important relationship between research, technology and increased productivity, the expressed goals of this Administration for a strong economy and improved national security demand more, rather than less investment in basic research. Furthermore, the intrinsic relation between the performance of basic research and the training of scientists and engineers makes continuing strong support necessary to prevent future critical personnel shortages.

Within the current support by the government of research and development, nearly \$10 billion, less than 15 percent represents basic scientific and engineering research. Support of scientific research is a public expenditure from which all sectors of society benefit. Basic science is a long-term investment, and depends on government support. There are no significant sources of support for such a collective benefit which can replace the Federal Government.

Instability and abrupt changes in funding have severe effects: research teams are broken up; investments in experiments involving large facilities such as accelerators, spacecraft, oceanographic vessels and other instruments are poorly used. The continued flow of new researchers into our industrial and university laboratories is best maintained by their stable and continued participation in university based graduate research.

Because of low investments in research over a decade and high inflation, many fields of science are now especially sensitive to decreases or increases in funding. The conference urges that the Government plan carefully for the support of the natural sciences, engineering sciences and social sciences, and protect such plans from abrupt change.

In the March budget revisions the Administration recognized the general, long accepted principles of the Federal role in support of research and development. There is special concern for defense and renewed growth in productivity.

The proposed reductions in the President's Fall Budget Program would establish an overall percentage cut in all the various budgetary accounts. The conference strongly recommends instead that the Administration and Congress should:

View research and development across the entire government, making budgetary adjustments or reductions that maintain the basic sciences by reallocating funds between research and development;

Instruct Departments and Agencies to maintain the strength of science in agency budget allocations;

Direct a larger part of the increased budget for national security to the funding of basic research that is essential to the maintenance of that security;

Recognize that the scientific base of the nation has suffered a decade of little or no growth and must be strengthened in order to maintain competence in the nation's laboratories;

Recognize that education in the sciences is inextricably linked to research and continue graduate student support through research grants, fellowships, and traineeships;

Recognize the need to revitalize the instrumentation and facility base on which future scientific and technological advance depends.

These principles should be applied to the budget for 1982 and beyond.

A much strengthened mechanism is needed through which the scientific and engineering communities advise on resource allocations and analyze the impacts and benefits of various shorter term and longer term budget strategies for government investment in research and development.

It is timely to initiate an analysis and evaluation of the institutional system for the support of research and development including the distribution of resources, the continued need for some facilities, grant mechanisms, etc. There should be input into this review from the scientific and engineering communities in universities, the national laboratories and industry. Further, review must look across Departments and Agencies to achieve the most productive allocation of resources.

The strength of the nation depends on the continued supply of scientists and engineers. A large number of the best young people must be attracted into these disciplines for careers in industry, the government, and universities. Policies at all levels of government to insure the continued flow of scientists and engineers must be developed. The education of the nation's youth in science and engineering requires priority attention not only by the Federal Government, but also by citizens and officials at the state and local levels and also by the private sector.

The growing relation between universities and industry are laudible and the nation can only benefit from these partnerships. Yet such a relation cannot become a substitute for the strong government-university partnership in support of basic research which now exists. The industrial members of the conference strongly support the continued investment in basic research by the government.

THIRD LAW OF THE SEA CONFERENCE

Mr. CANNON. Mr. President, over the past 7 years the United States, along with over 150 other countries, have been drafting a convention on the law of the sea. Using the Third United Nations Conference on the Law of the Sea as a forum the nations of the world are attempting to compose an international legal frame-

work that addresses territorial limits, navigational rights, fishing rights, environmental protection, marine scientific research, mineral resource exploration, and other ocean issues. Essentially every aspect and use of the ocean will be affected one way or another by this convention. To date these laborious negotiations have resulted in a document entitled "Draft Convention on Law of the Sea" which contains 320 articles and 8 annexes.

However, a few days before the tenth session of the Third Law of the Sea Conference was scheduled to convene in March of this year, Secretary of State Alexander Haig announced that he had instructed the U.S. delegation to the conference "to insure that the negotiations (did) not end" at that session. Secretary Haig also called for a "thorough review" of the convention by the U.S. Government which would then be used to determine our position toward future negotiations of the conference. As a result, the United States adopted a non-negotiating posture. The Haig announcement was made over 8 months ago and the State Department has just recently completed its review.

In the interim, the March session of the conference in New York and the August session in Geneva, Switzerland, have passed with U.S. participation at both sessions being confined to observation and "informal discussion." Due to the inability of the United States to negotiate, the conference has come to a standstill. Many of its participants, including our allies and Third World countries are becoming more and more impatient and frustrated by our lack of commitment, one way or the other, regarding participation at the conference.

With the review having just been completed, I understand the President will soon be presented with the results. He must make a decision as to whether or not the United States will participate further in the conference or withdraw completely from the negotiations. This is obviously not a decision that can be made easily or taken lightly and therefore will require time to formulate. This decision-making process will likely result in still further delays and prolong the period of time that the United States is without a coherent and articulate policy regarding these important and far-reaching negotiations.

I am becoming very concerned that whatever the President decides, there will not be enough time to lay the groundwork needed to implement his decision before the next session of the Law of the Sea Conference reconvenes early next year in New York. Postponement of the completion of the review has already added an additional month to the original review schedule proposed by the Department of State.

In any international negotiating arena, progress is slow and the scheduling of events must take into account the pace of realistic negotiation. In the case of the Law of the Sea negotiations, future intersessional meetings with many different countries may be required, as may one-on-one informal discussion with individual countries before

the next session. The review has taken entirely too much time and as a result could create some very real practical problems for the individuals responsible for implementing the President's decision, whatever it may be.

It is time the United States adopt a policy position regarding future negotiations of the Conference. A quick and thoughtful decision by the President on this matter is critical to allow the U.S. delegation to the Conference the necessary time to thoroughly prepare before the next scheduled session in March of 1982.

As a corollary to the Law of the Sea, last year the Congress passed the Deep Seabed Hard Mineral Resources Act. As chairman of both the Senate Commerce, Science, and Transportation Committee and the national ocean policy study during the last Congress, I was deeply involved with steering this legislation through the Senate. This act promotes the conservation and development of the hard mineral of the seabed, particularly manganese nodules, by citizens of the United States.

In the relevant hearings that were held in the Senate to hear testimony concerning this legislation, it was pointed out that other nations, such as the Federal Republic of Germany, were investigating a similar initiative. Today the United States and several other countries have domestic seabed mining legislation and still other countries are pursuing it in their legislative bodies.

It is clear, as nations around the globe pass laws which will regulate their deep seabed miners, that some mechanism to provide for international compatibility among these problems is necessary to facilitate the kind of international cooperation needed to maximize the use of hard mineral resources of the seabed.

Consequently, a section was included in the seabed mining legislation which allows the Administrator of NOAA, in consultation with other departments and agencies, to designate foreign nations as "reciprocating states" if their licensing and permitting requirements for exploration and commercial recovery of hard minerals from the seabed are compatible with those of the United States.

The United States has been negotiating for over a year a reciprocating regime with a small group of other countries, the so-called "like-minded" nations which have implemented or are soon likely to implement domestic seabed mining programs. Although consistent progress has been made, it has been slow, and I urge both the Department of Commerce and the Department of State to continue the ongoing reciprocating states negotiations in an expeditious manner.

Final regulations implementing our domestic seabed mining legislation were issued September 15, 1981 except for that portion outlining procedures for applications based on exploration which commenced prior to enactment of the seabed mining legislation. This section was omitted because NOAA believes that this part of the regulations must detail comparable procedures and rules agreed to among the "like-minded" nations. Con-

sequently, a timely reciprocating States umbrella agreement is particularly important to allow for the completion of U.S. domestic regulations and thereby allowing U.S. citizens which have already invested in the exploration of the seabed, the opportunity to apply for an exploration license.

Regardless of whether the reciprocating States regime will eventually stand alone or be transitional in nature and evolve into part of a broader law of the seabed regime, the reciprocating States must move ahead under the leadership of the United States.

Once again I reiterate these two separate, yet related, points. First, I urge the President to act swiftly in outlining a policy for the United States regarding the law of the sea negotiations, and second, I further encourage the Departments of Commerce and State to move forward in negotiating a reciprocating agreement as mandated by the Deep Seabed Hard Mineral Resources Act.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirton, 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 sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of November 22, 1981, the Secretary of the Senate, on Monday, November 23, 1981, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 357. Joint resolution making further continuing appropriations for the fiscal year 1982, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

MESSAGE FROM THE HOUSE

At 4:16 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 368. Joint resolution making further continuing appropriations for the fiscal year 1982.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution providing for the commemoration of the one hundredth anniversary of the birth of Franklin Delano Roosevelt; and

H. Con. Res. 228. Concurrent resolution providing for an adjournment of the House from November 23 to November 30, 1981, and an adjournment of the Senate from November 24 to November 25 to November 30, 1981.

The message further announced that the House has passed the bill (S. 1086) to extend and revise the Older Americans Act of 1965, and for other purposes; with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PERKINS, Mr. BIAGGI, Mr. ANDREWS, Mr. CORRADA, Mr. WILLIAMS of Montana, Mr. RATCHFORD, Mr. ASHBROOK, Mr. COLEMAN, and Mr. PETRI as managers of the conference on the part of the House.

At 5:52 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has agreed to the following resolution:

H. Res. 285. Resolution electing the Honorable Thomas S. Foley, a Representative from the State of Washington, as Speaker pro tempore.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker pro tempore has signed the following enrolled joint resolution:

H.J. Res. 368. Joint resolution making further continuing appropriations for the fiscal year 1982.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE CONCURRENT RESOLUTION HELD AT THE DESK

The following concurrent resolution was ordered held at the desk by unanimous consent:

H. Con. Res. 220. Concurrent resolution providing for the commemoration of the one hundredth anniversary of the birth of Franklin Delano Roosevelt.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 45. Concurrent resolution expressing the sense of the Congress with respect to the rights of the people of Afghanistan.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Jesse E. Eschback, of Indiana, to be United States Circuit Judge for the Seventh Circuit; Richard A. Posner, of Illinois, to be United States Circuit Judge for the Seventh Circuit; James C. Cacheris, of Virginia, to be United States District Judge for the Eastern District of Virginia;

John H. Moore II, of Florida, to be United States District Judge for the Middle District of Florida;

David V. O'Brien, of the Virgin Islands, to be United States District Judge for the Dis-

trict of the Virgin Islands for the term of eight years;

Clyde H. Hamilton, of South Carolina, to be United States District Judge for the District of South Carolina;

Jim J. Marquez, of Kansas, to be United States Attorney for the District of Kansas for the term of four years;

Robert N. Miller, of Colorado, to be United States Attorney for the District of Colorado for the term of four years;

James M. Rosenbaum, of Minnesota, to be United States Attorney for the District of Minnesota for the term of four years;

Ronald D. Daniels, Jr., of New Hampshire, to be United States Marshal for the District of New Hampshire for the term of four years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY (for himself and Mr. JOHNSTON):

S. 1885. A bill to amend the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities with respect to encouraging their investment in cogeneration and small power production facilities, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 1886. A bill to amend the Foreign Service Act of 1980 with respect to the number of chiefs of diplomatic mission who are career members of the Foreign Service; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself and Mr. JOHNSTON):

S. 1885. A bill to amend the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities with respect to encouraging their investment in cogeneration and small power production facilities, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT AMENDMENTS

Mr. HUMPHREY. Mr. President, I introduce today, with my distinguished colleague from Louisiana (Mr. JOHNSTON) as an original cosponsor, a bill which would amend the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 (PURPA) to place utilities, including members of registered holding companies, on the same basis as nonutilities with respect to encouraging their investment in cogeneration and small power production facilities.

Since the Arab oil embargo of 1973 woke this Nation up to the fact that we had become dangerously dependent on imported sources of energy, considerable efforts have been made to diversify our energy mix, make greater use of indigenous and renewable resources, and to make more efficient use of the energy we use through the practice of conservation. This national objective was recognized and encouraged with the enactment of sections 201 and 210 of PURPA, which

provide certain rate incentives and regulatory exemptions for qualified small power producers and cogenerators.

Under PURPA, qualified cogeneration and small power production facilities are exempted from State regulation regarding utility rates and financial organization, from Federal regulation under the Federal Power Act (other than licensing), and from the Public Utility Holding Company Act. In addition, qualifying facilities are entitled to sell power to utilities at full "avoided cost" rates and purchase back-up power from utilities at nondiscriminatory rates.

Even with today's prohibitive environment for making high-risk, long-payback investments, over 1,800 megawatts of electrical capacity nationwide are presently being developed as a result of these incentives. I might add that my home State of New Hampshire has played a leading role in this process, especially in the area of small-scale hydro development. New Hampshire was the first State in the Nation to fully implement section 210 of PURPA, and at present there are over 50 applications on file at the Federal Energy Regulatory Commission to develop new and existing dam sites in my State.

Our impediment to the optimal development of cogeneration and renewables, however, is the 50-percent limitation on utility ownership of facilities which qualify for benefits under sections 201 and 210 of PURPA. By removing this limitation, I believe that our bill will be an important step toward unleashing the utilities' financial capabilities, technical expertise, and regulatory experience in developing technologies such as cogeneration, wind, solar, and hydro. The 50-percent limitation has already been lifted for utility-owned geothermal small power production facilities. Our bill would simply extend the notion that it is the nature of the power production facility, rather than its ownership, which should be the basis for encouragement under PURPA.

Mr. President, as chairman of the Subcommittee on Energy Regulation in the Senate Energy Committee, I have become increasingly disturbed by the poor financial condition of this Nation's electric utilities. The rate of return on stockholders' equity for the 50 largest investor-owned utilities has fallen from 12.3 percent in 1972 to 11 percent in 1980, more than 3 percent less than they are authorized to earn by State public utility commissions.

Stock in investor-owned utilities is currently selling at only 70 percent of its face value, and the bond ratings of many have fallen significantly, causing their bonds to be more expensive and difficult to sell. By giving utilities an equal business opportunity to benefit from the development of cogeneration and renewables, we will also be contributing to the long-range financial health of the industry—something which is in everyone's best interest.

Hearings were conducted this past spring and summer in the House Subcommittee on Energy Conservation and Power on this subject, and we plan to schedule Senate hearings sometime early next year. I welcome any comments or

questions our colleagues might have on this legislation, and of course, I encourage their cosponsorship. 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. 1885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AMENDMENTS TO THE FEDERAL POWER ACT
SECTION 1. (a) QUALIFYING SMALL POWER PRODUCERS.—Section 3(17) (C) of the Federal Power Act is amended to read as follows:

“(C) ‘qualifying small power production facility’ means a small power production facility which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe.”.

(b) DEFINITION OF QUALIFYING COGENERATORS.—Section 3(18) (B) of the Federal Power Act is amended to read as follows:

“(B) ‘qualifying cogeneration facility’ means a cogeneration facility which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe.”.

AMENDMENT TO PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

SEC. 2. Section 210(e)(1) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting after “qualifying small power production facilities” the following: “or any investment or acquisition of any other interest therein”.

Mr. JOHNSTON. Mr. President, virtually every day statements are made on the floor of this body and elsewhere which cite the need to increase domestic energy production and eliminate restrictive and counterproductive governmental regulation. Without recounting those arguments, I will simply say that the bill we are introducing today seeks to achieve both of those goals.

This bill would eliminate the arbitrary 50-percent limitation on utility ownership of cogeneration facilities which is present in section 210 of the Public Utility Regulatory Policies Act (PURPA). Cogeneration is a means whereby the steam which is used in certain industrial processes is also used to turn an electric generator. Thus, a more efficient use of the fuel resource is made, and we develop two useful end products as opposed to one.

However, under section 210 of PURPA, cogeneration facilities which are more than 50 percent utility owned do not qualify for certain legal exemptions which are granted to other owners of such facilities. Among these are exemptions from State regulation regarding utility rates and financial organization, certain Federal regulations under the Federal Power Act, and from the Public Utilities Holding Company Act. By withholding these exemptions from utilities, we are destroying the economic incentives for the one industry which can effectively employ cogeneration technology.

As a practical matter, few private industrial concerns are willing to undertake cogeneration because of high capital costs, lack of expertise, and a fear of governmental regulation in spite of the

PURPA exemptions. The result has been that cogeneration technology has failed to reach its potential as a viable and competitive energy source. Our bill would remove the ownership limitation on utilities, and thereby help make energy production from cogeneration facilities a reality.

By Mr. MATHIAS:

S. 1886. A bill to amend the Foreign Service Act of 1980 with respect to the number of chiefs of diplomatic mission who are career members of the Foreign Service; to the Committee on Foreign Relations.

CHIEFS OF DIPLOMATIC MISSIONS

● Mr. MATHIAS. Mr. President, for several years I have advocated placing statutory restrictions on the percentage of nonprofessionals appointed to ambassadorial rank as chiefs of U.S. diplomatic missions. I believe that limiting the percentage of political appointees to 15 percent would both improve the morale of the career Foreign Service officers and bring greater professional competence to the conduct of our diplomacy.

In 1974, I proposed to the Senate that a 20-percent ceiling be placed on non-career ambassadorial appointments. This amendment passed the Senate on October 2, 1974, but did not survive conference. In 1975, the idea was revived again both in my bill, S. 202, and by a separate Foreign Relations Committee proposal. These measures were considered by the committee but not adopted.

In 1976, I introduced an amendment to the State Department authorization bill proposing a limit of 15 percent for political ambassadorial appointees. In conference it was weakened and emerged, in diluted form, in Public Law 94-350 of July 12, 1976. Section 120 of the law declares:

It is the sense of the Congress that a greater number of positions of ambassador should be occupied by career personnel in the Foreign Service.

As of mid-October 1981, 9 months into President Reagan's administration, 44 percent of the President's new ambassadorial appointments have gone to individuals outside of the career Foreign Service although comprehensive figures including retained ambassadors are not so high. Should this trend continue, however, this administration would have the highest percentage of nonprofessional chiefs of mission of any administration in the postwar period, as the following chart, provided by the American Foreign Service Association, demonstrates.

	Number career	Number non-career	Percent career	Percent non-career
President:				
Truman.....	115	63	65	35
Eisenhower.....	156	72	68	32
Kennedy.....	72	52	58	42
Johnson.....	94	56	63	37
Nixon.....	157	73	68	32
Ford.....	47	29	62	38
Carter.....	141	52	73	27
Reagan.....	45	36	56	44
Total.....	827	433	66	34

I do not mean to imply that the United States has not greatly benefited from the services of many distinguished diplomats who were appointed from outside the ranks of the career Foreign Services. Such able and dedicated men and women as Ellsworth Bunker, John Sherman Cooper, Shirley Temple Black, and Averell Harriman brought to their ambassadorial positions great energy, skill, and experience. Indeed, the occasional appointment of qualified men and women from outside the career Foreign Service can bring to our diplomacy a fresh perspective on the problems and opportunities facing American foreign policy. There is a role for the political appointee. In the past, however, that role has often been abused, to the detriment to our foreign policy and the national interest.

Too often, political appointees to our embassies lack the experience and expertise required to represent competently America's complex interests abroad. Ambassadorial posts have often been granted in exchange for political support or campaign contributions. Our national security is too important to be subordinated to the patronage requirements of partisan politics.

The proliferation of political appointees abroad has affected the career Foreign Service as well. Morale is undermined when many of the most responsible and prestigious foreign assignments are given to neophytes in foreign affairs. Not only must the beleaguered career officer work overtime to compensate for the shortcomings of a well-intentioned but inexperienced chief of mission, but he or she must do so in the realization that ultimately, the highest levels of the profession may be inaccessible to the majority of aspiring Foreign Service professionals because of the proliferation of political appointees.

The professional Foreign Service is comprised of a relatively small cadre of highly trained, very dedicated American men and women. They endure countless hardships—hostile climates, frequent relocations, difficult living conditions, disruptions in family life, and, increasingly, personal danger—in the service of the United States. It is unthinkable to deny such men and women the access through normal promotion to the highest positions of their profession. Yet that is the trend. I believe that the Senate in its special responsibility in the area of foreign affairs should amend the Foreign Service Act of 1980 to reverse the trend.

In an age of increasing complexity and heightened dangers, American chiefs of mission play a crucial role as this Nation's first line of defense. In keeping with this administration's dedication to excellence in foreign policy, the time is ripe to examine and perhaps reassess the role of the Ambassador in U.S. foreign policy for the 1980's. Today, as a vehicle for these discussions, I am introducing S. 1886, a bill to limit the percentage of political appointees to the position of chief of diplomatic mission to 15 percent.

It is my hope that the Senate Foreign Relations Committee will hold hearings at the earliest convenient date. ●

ADDITIONAL COSPONSORS

S. 1787

At the request of Mr. ROBERT C. BYRD, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Illinois (Mr. DIXON), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Vermont (Mr. LEAHY), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Montana (Mr. MELCHER), the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. PRYOR), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Texas (Mr. BENTSEN) were added as cosponsors of S. 1787, a bill to assure the American people that the administration's budget goals will be met, that the deficit for fiscal year 1982 will not exceed \$43,100,000,000 that the deficit will not exceed \$22,900,000,000 for fiscal year 1983, and that the budget will be balanced in fiscal year 1984, and to assure the representation of small business interests on the Board of Governors of the Federal Reserve System.

S. 1881

At the request of Mr. SASSER, the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 1881, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. GRASSLEY, the Senator from Idaho (Mr. McCURE), the Senator from New York (Mr. D'AMATO), the Senator from West Virginia (Mr. ROBERT C. BYRD), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Concurrent Resolution 45, a concurrent resolution expressing the sense of the Congress with respect to the rights of the people of Afghanistan.

SENATE RESOLUTION 247—RELATING TO THE NEXT VACANCY ON THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Mr. WEICKER submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 247

Whereas, interest rates have reached record high levels in 1981;

Whereas, high interest rates are having a devastating effect on the credit-sensitive sectors of the economy, particularly small businesses, which includes small farms;

Whereas, business bankruptcies are nearly 50 percent above 1980;

Whereas, Federal Reserve System money and credit policies directly affect the cost and availability of credit;

Whereas, Sec. 10 of the Federal Reserve Act of 1913, as amended, provides that in submitting nominations for the Board of Governors of the Federal Reserve System, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country;

Whereas, the 96th Congress adopted S. Res. 434 stating the sense of the Senate that nominations to the Board of Governors of the Federal Reserve System should reflect consideration of the requirements for regional and economic interest representation;

Whereas, over 97 percent of the businesses in the United States are small businesses, which account for nearly 50 percent of the Gross National Product, 90 percent of the new jobs created in the private sector, and nearly half of the Nation's industrial innovations;

Whereas, the term of service of one of the members of the Board of Governors is expiring on January 31, 1982: Now, therefore, be it

Resolved, That it is the sense of the Senate, that the next vacancy on the Board of Governors of the Federal Reserve System should be filled by an individual who has substantial small business experience.

Mr. WEICKER. Mr. President, today I am submitting a resolution which states that the next vacancy on the Board of Governors of the Federal Reserve System should be filled by an individual who has substantial small business experience.

This resolution reflects a position I have long held concerning the need to have fair and equitable representation on the Federal Reserve, consistent with the original law and with the unique problems of our economy. In a recent speech before the procurement conference in Connecticut, I urge the President to nominate someone to the Board who brings an understanding of the credit needs of the small business sector of the economy.

This position was further reinforced by the Senate Small Business Committee's National Advisory Council.

On June 22, 1981, Senator NUNN and I announced the formation of the National Advisory Council of the Committee on Small Business. This Council is made up of 25 small business men and women from around the country who have agreed to work with the committee to provide a grassroots view of small business issues and concerns.

The first meeting of the Council was held in Washington, on October 28. And I wish that all of my colleagues in the Senate could had the opportunity to participate in this truly beneficial meeting. I felt then, and feel even more strongly now that it is absolutely crucial to establish the kind of ongoing communication between small business and Washington that this Council will provide.

These people, involved with a small business on a day-to-day basis, are in the best position to tell us what the problems of inflation, high interest rates, and excessive regulations are doing to them and their businesses.

It is noteworthy that during the course of this day-long session, the one issue deemed to be of greatest significance to the small business community by the Council dealt with the appointment of a small business person to the Federal Reserve Board. I would like to have printed as part of the RECORD at this point the Council's recommendation which was transmitted to the Small Business Committee through its chairman, Mr. Shaw Mudge, together with a list of the Council's membership.

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

SHAW MUDGE & Co.,

Stamford, Conn., November 2, 1981.

HON. LOWELL WEICKER, JR.,

Chairman, Senate Committee on Small Business, Washington, D.C.

DEAR MR. CHAIRMAN: As Chairman of the Senate Small Business Committee's National Advisory Council, I would like to thank you and the other Committee members for hosting our first meeting on October 28, 1981. The Council believes that it was a most productive and worthwhile session.

I would also like to take this opportunity to officially notify you that at the close of the business session, the Council unanimously passed a Resolution calling on the Senate Small Business Committee to take a leadership role in assuring that a small business owner, or someone with considerable small business background, is appointed to the vacancy that will be created on the Board of Governors for the Federal Reserve System when Board Vice Chairman, Frederick H. Schultz's term expires on January 31, 1982.

After considerable discussion, the Advisory Council came to the conclusion that the special credit and monetary needs of the small business sector of the economy have not been adequately addressed by the Federal Reserve Board. It is our hope that the appointment of a small business man or woman to the Board by the President would do much to increase the Board's sensitivity to the special economic and fiscal conditions that affect a small entrepreneur.

We believe that the Senate Small Business Committee should be in the forefront of activity leading to the long-overdue appointment of a small business person to the Federal Reserve Board.

We hope that the Committee will act on our Resolution in an expeditious manner.

Sincerely,

SHAW MUDGE,

Chairman, National Advisory Council.

NATIONAL ADVISORY COUNCIL TO THE SENATE COMMITTEE OF SMALL BUSINESS

Hugh Allred, Cullman, Ala.
James Beavers, Clinton, Ark.
Leon Brassard, Hudson, N.H.
David Bruce, Bozeman, Mont.
Mary Diener, Research Triangle Park, N.C.
William Farden, Seattle, Wash.
Walter Floss, East Amherst, N.Y.
Leonard Forsgren, Portland, Ore.
Bruce Hopewell, New York, N.Y.
Oscar Hornsby, Somerset, Ky.
Michael Lefkiades, Bay City, Mich.
Helen Leslie, St. Petersburg, Fla.
Bill Lyttle, Bridgeport, Conn.
Forrest Mertz, Ponca City, Okla.
Thelma Moss, Dorchester, Mass.
Shaw Mudge (chairman), Stamford, Conn.
Therman McKenzie, Forest Park, Ga.
Bill Nours, Nashville, Tenn.
Arthur Obermayer, Cambridge, Mass.
Francis Ravel, Los Angeles, Calif.
James Rhoads, Atlanta, Ga.
Ralph Steinbarth, Chicago, Ill.
Glenn Stout, Minneapolis, Minn.
David Tomlinson, Salt Lake City, Utah.
Morris Womack, Friendswood, Tex.

Mr. WEICKER. Mr. President, the Board of Governors of the Federal Reserve as presently constituted does not have in its membership a person with a small business background or with substantial small business experience. It is time that the voice of small business be heard in the halls of the monetary policy makers of this land.

This fall, the Small Business Committee has held 5 days of hearings on interest rates and the impact on small business. You know what we found out? Not surprisingly, that small businesses are being killed by high interest rates. Businesses are going belly-up every day—bankruptcies are already running 50 percent over last year. And we are not talking statistics here, we are talking flesh and blood.

It is the industries dominated by small companies that are going under or are just barely hanging on. It is the small firms that are filing corporate bankruptcy all across the Nation, while big companies like Du Pont and Sears are acquiring other firms and getting bigger and bigger. Corporate America is able to weather skyrocketing interest rates very nicely, while the small business owner is out there dying on the vine.

Small business men and women are the forgotten foot soldiers in the war against inflation, and maybe it is time somebody pointed out to the administration that the casualties are mounting.

I think it is time we reminded the people who make policy in this country of the truth of the words they have been mouthing all along: That small business is the backbone, the bedrock, the foundation, and the mainstay of our economy. This country was built by individual merchants, tradesmen and laborers. It was they who gave it its spirit and its dynamism, not some corporate board of directors.

Despite all the mounting economic hardships, small business still accounts for 90 percent of the new jobs created in the private sector. Small firms still account for nearly 50 percent of the gross national product, and for nearly half of this country's industrial innovations.

And yet, year after year, our economic policymakers ignore these amazing small business contributions to our economy and continue to promote policies that favor the corporate giants.

Well, Mr. President, right now small business is leading the rest of the country into what could be a very severe recession. Finally people are beginning to realize that as small business goes, so goes the Nation. And small business is in very deep trouble right now.

And the problem is severe and immediate, but not irreparable. The administration's economic game plan has gone awry and we need a midcourse correction urgently. The 1981 fiscal and monetary policies do not add up—and I have been saying that all year. Ever since January I have been saying that you cannot cut taxes 30 percent, undertake a massive new arms buildup, tighten credit and still balance the budget.

In my judgment, the Fed has not been sufficiently sensitive to the agony of small business caused by record high interest rates. All through 1981 the Fed continued to tighten the screws on money and credit, each time pushing up interest rates and to new record highs. Sure they knew there would be pain, and bankruptcy and unemployment. But each month they voted to turn the screws tighter and tighter. And where was the voice of small business in the councils of monetary policymaking? The answer is clear—small business had been disenfranchised. There was no one on it with authority to say, "Wait. Shouldn't we take into account some of the special problems of Main Street? Of rural America? Do we have to worry only about Wall Street?"

I want the Main Street view of the Fed. And I think it is desperately needed there.

Mr. President, the resolution enjoys strong support within the small business community. For too long, the needs and concerns of small business have been an afterthought when monetary and fiscal policy is formulated.

It is important for the Senate to send a clear signal to the President of its interest and concern with respect to this nomination. Passage of this resolution would put the President on notice of a special, small business-oriented criterion to be taken into account in the confirmation process.

It is my understanding that on November 30, 1981, the Senate Banking Committee will hold hearings on this issue. I am aware that several resolutions have already been introduced in the House and Senate. Prior to the committee's consideration, I thought it was appropriate and timely for the chairman of the Small Business Committee to present the small business perspective on this important mutual issue.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, November 24, to hold a hearing on State implementation of Federal standards: Resource Conservation and Recovery Act.

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

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate at 2 p.m. on Monday, November 23, to discuss these nominations:

Jesse E. Eschbach, of Indiana, to be circuit judge for the seventh circuit court of appeals.

Richard A. Posner, of Illinois, to be circuit judge for the seventh circuit court of appeals.

Clyde H. Hamilton, of South Carolina, to be U.S. district judge for the district of South Carolina.

David O'Brien, of the Virgin Islands, to be U.S. district judge for the district of the Virgin Islands.

John Moore II, of Florida, to be U.S. district judge for the middle district of Florida.

James Cacheris, of Virginia, to be U.S. district judge for the eastern district of Virginia.

Robert Miller, of Colorado, to be U.S. attorney for the district of Colorado.

Ronald Daniels, Jr., of New Hampshire, to be U.S. marshal for the district of New Hampshire.

Jim Marquez, of Kansas, to be U.S. attorney for the district of Kansas.

James Rosenbaum, of Minnesota, to be U.S. attorney for the district of Minnesota.

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

COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Intelligence Committee be authorized to meet during the session of the Senate at 10:30 a.m. on Tuesday, November 24, to hold a closed hearing in relation to S. 1273, the Intelligence Reform Act of 1981.

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

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF POSITION ON VOTES ON SECOND CONTINUING RESOLUTION

● Mr. BOREN. Mr. President, on Sunday, November 22, the Senate considered the conference report on House Joint Resolution 357 making further continuing appropriations for fiscal year 1982. I was necessarily absent during consideration of that measure, but had I been present and voting, I would have voted "no" on final passage of rollcall vote No. 424, and "no" on rollcall No. 425.●

POSITION ON VOTE

● Mr. GORTON. Mr. President, on Wednesday, November 18, a rollcall vote occurred on unprinted amendment numbered 651, offered by Senator ROBERT C. BYRD. The amendment to House Joint Resolution 357—the continuing appropriations resolution—would have changed the date on which the resolution terminates to December 18, 1981.

I was not present to vote on the amendment because Senator ARMSTRONG, Senator BOSCHWITZ, and I were meeting with the President at the White House to discuss the second concurrent budget resolution, then being marked up by the Senate Budget Committee. We attempted unsuccessfully to convince the President to endorse the budget plan being offered by Senator DOMENICI.

Had I been present, I would have voted against the distinguished minority leader's amendment, as I voted against his other similar amendments that day.●

THE REPUBLIC OF VENDA

● Mr. EAST. Mr. President, the Republic of Venda is the black nation of the Vhavenda people which became independent of South Africa on September 13, 1979. A proud, courageous and hardworking people, the nation of Venda is staunchly pro-American, firmly believes in private enterprise and human rights for all people. Rather than continuing to live under apartheid in South Africa, the people of Venda opted for political self-determination in 1979, after establishing self-government in 1969.

Strategically located between South Africa and Zimbabwe, the Republic of Venda is lead by its President, His Excellency Chief, Patrick Mphephu, who has been its leader since self-government. In commenting on relations with other southern African states, President Mphephu stated:

As part of Southern Africa, Venda is cooperating with other independent Southern Africa States of South Africa, Transkei and Bophuthatswana, in the realization of the new dispensation of Constellation of States. This is done with the clear understanding that there will be no interference with the political status of my country. This state of inter-dependence, especially on the economic sphere, will facilitate exchange of ideas and free movement of peoples across political borders.

To date, the United States has not chosen to recognize the Republic of Venda, however, I am hopeful this nation will receive full and sympathetic understanding from President Reagan and his administration.

Mr. President, I recommend the Independence Day speech by President Mphephu to all who are truly interested in furthering America's interest in Africa. I ask that it be printed in the RECORD.

The speech follows:

SPEECH OF HIS EXCELLENCY CHIEF PATRICK MPHEPHU

Mr. M. C., His Excellency the Ambassador of Republic of South Africa, The Chief Justice of Venda, Honourable Members of the Cabinet, Chiefs and all the people gathered here today, I greet you.

To the citizens of Venda, I say this is a great day in our life. You have gathered to make a success of and strengthen what belongs to you, which is the status reached by your country. The status in which Venda is found, and seen amongst other countries of the world. The status in which each Muvenda ought to be proud of because he has reached a stage where he can have freedom of thought and freedom of action.

To my people and all the guests, it goes without saying that by accepting independence in 1979, Venda has gone far on the political sphere. Since Venda is now politically advanced, there is no more time for lingering about, there is no time for depending on others. No longer do Vhavenda wait for people from other countries to tell them when and what to do because they themselves realize it.

Now, being at this stage in time and space, I appeal to all and every Muvenda to look at mountains, forests, plains, low-lying lands, precipices and ravines, and think what he can produce from them. Let mountains and rivers of this country be a source of inspiration and enthusiasm.

Even though it is still a short stretch, does retrospective observation from 1979 not reveal to you changes in all walks of life?

Look at projects of plants and plantations in all the different areas of Venda. Take note of the precipices that are being demolished, and stones and boulders that are being rolled down and, rivers over which bridges are under construction to facilitate transport. Take note of secondary schools that are springing up like mushrooms to enable each and every child to be taught in his immediate vicinity. Have a look at Thohoyandou, Makwarela, Vuwani, Shayandima, Makhado and Tshandama and notice modern buildings that are being erected. Can you tell me any place in Venda which has no sign or indication of change? Vhavenda, fold up your sleeves because it is day-break.

The independence in which we are has promoted esprit de corps amongst the people as one nation with one language. This spirit deserves congratulations because, contrary-wise, foreigners would disseminate disintegration. All this materialised as a result of mutual agreement and co-operation between the people and the government.

Mr. M.C., the status which Venda attained as a result of the granting of independence is not new to Vhavenda. It is a restoration of what the people and the country enjoyed before 1902. This status was lost through legislation by the South African Parliaments, which acted without consulting our forefathers. That is why Venda did not hesitate to opt for independence when the South African Government made an offer. Refusal by Venda to accept the offer would be a denial of her birth-right.

Our people have participated and contributed in the economic development of South Africa since the discovery of diamonds and gold in 1867 and 1893, respectively. They travelled all the way on foot, across the rivers, over the mountains and plains, to the diamond fields of Kimberly and gold fields of Johannesburg. They worked in the mines, on the roads, on the railway lines, in forest plantations at a time when there was no machinery. They worked in the gardens, steelwork, Sasol and all over. Their sons are still carrying on this work. In other words, they actively participated in the economic and social development of South Africa. It is for this reason that my country should have a share in the distribution of wealth in southern Africa.

Since the inception of the Bantu Authorities Act of 1951, the Vhavenda have moved along the road of separate development without which they would have been submerged by the nations with larger numbers. The implementation of the policy of separate development has remained a challenge to the successive South African Governments. It is a policy which South Africa chose to follow and which was accepted by the black nations of the country. The fact that they have accepted separatism is obvious as all of them have moved all the way from tribal authorities into legislative assemblies, and that is why they are pressing for rapid consolidation of their territories.

Fortunately, the South African Government, by winning the last general election, has been given a mandate to speed up the policy introduced in 1951. The United Nations and Organisation of African Unity will be forced to soften their attitudes if the 1936 Land Act is amended to accommodate the land aspirations of the national and independent states.

My Government has already submitted proposals for additional land due to Venda in order to make it economically viable. The delay in the consideration of my proposals is hampering the economic planning and development of my country.

As I have previously said, independence has created a strong sense of patriotism and national awareness amongst my people.

That is why traffic between Venda and metropolitan areas of the Republic of South

Africa is very heavy, especially during weekends and public holidays. I will not be wrong if I say, 'If there were job opportunities here, most of them would prefer to come back.' It is for this reason that I appeal to businessmen and industrialists to invest their money in Venda. They should do this without any suspicion or fear, as Venda is committed to a system of free enterprise, practiced by the Western countries. In addition to this, Venda is a multi-national State.

In order to move away completely from Bantu education, I appointed a National Education Commission to investigate and, thereafter, to recommend to me what type of education should be introduced in Venda, an education which will satisfy the aspirations of the modern people of Venda, while, at the same time, rendering them acceptable to the world at large. This Commission has already started and it will submit its report before the end of the year.

As part of Southern Africa, Venda is cooperating with other independent Southern Africa States of the Republic of South Africa, Transkei and Bophuthatswana, in the realization of the new dispensation of Constellation of States. This is done with the clear understanding that there will be no interference with the political status of my country. This state of inter-dependence, especially on the economic sphere, will facilitate exchange of ideas and free movement of peoples across political borders.

Outside the borders of Southern Africa, positive advances were made and contacts have been established. This will be extended in the course of time.

Mr. M.C., returning to Venda, whose offspring are well fed, I am addressing each and every Muvenda by birth, or a Muvenda by virtue of citizenship, that we should approach the third year being united intellectually and spiritually.

Let us unite as children of the same Mother. Enmity, misunderstanding, hatred and differences should die a natural death today on 12 September 1981. In case any differences should crop up, let these be the results of observation and opinion, and not those that will spark off hostilities. Let there be unity, peace and understanding. When we emulate what others are doing, let this be encouragement that we also produce the same. Let there be an end to friction and gossip, as these are stumbling blocks of progress. Everywhere, where we will be found, let us be examples of social interaction, virtue and co-operation. Let us learn self-sacrifice and dedication to duty from countries such as Taiwan, Japan, Malawi and other developed countries. Let there be mutual respect between man and man.

Mr. M.C., with these words I wish every luck to each and every citizen of Venda. May the New Year of Independence, that will start tomorrow, bring all prosperity and all luck in our physical and spiritual life. May the children attend schools properly and be taught in a satisfactory manner in order that they may pass. All the workers must put the interests of their country first. Let there be a cool breeze to promote peace among the people.

This is what I had in my pocket for Venda and the world at large.

Thank you. ●

LIVING WITH AGING

● Mr. HEINZ. Mr. President, I would like to take this opportunity to commend Mr. Sheldon W. Fantle, president and chief executive officer of Peoples Drug Stores and Dr. Robert Butler, director of the National Institute on Aging for their valuable contribution to the special health and social needs of our Nation's older Americans. I am pleased to bring to the attention of my colleagues their ex-

ample of a strong partnership between the private and public sectors, which promises to provide a valuable service to the elderly and those responsible for their care.

Their "Living With Aging" program, makes readily available to the elderly, and those who care for them, authoritative information on topics of concern to the older people. This information is based on NIA research and will address issues such as high blood pressure, proper use of medication, accident prevention, and nutrition. Directories of community services organizations will also be distributed in order to improve the elderly's access to services such as housing and transportation. "Living With Aging" also includes pharmacy outreach programs through which trained pharmacologists will be available to answer specific questions regarding the health care needs of older Americans.

Today, 1 out of every 9 Americans is over 65—and this number will grow to 1 out of every 5 early in the next century. As people live longer, their health care needs become greater. The elderly alone consume 25 percent of all drugs dispensed in this country today. Public information fashioned to address these concerns will result in a better educated public better equipped to face the common health problems of the aging.

Peoples and the NIA are to be commended for their leadership and contributions to the health education of the elderly and their families. It is my hope that other organizations—both private and public—will follow their lead. ●

NATIONAL DEFENSE AND THE ECONOMY

● Mr. NUNN. Mr. President, as spending for national defense needs as a percent of GNP increases, the relationship between that spending and the overall performance of the economy will also become increasingly important. In a recent issue of *Aviation Week and Space Technology*, political economist Eliot Jane-way discusses at great length his views on this critical issue.

Mr. President, I ask that Mr. Jane-way's article be printed in the RECORD.

The article follows:

DEFENSE REQUIREMENTS AND THE NATIONAL ECONOMY: A HISTORICAL PERSPECTIVE AND A CURRENT ANALYSIS

Clemenceau's famous dictum about war—"It's too important to be left to the generals"—is an echo from that bygone and simple world when generals could still expect to commandeer resources overnight. The Great German General Staff, which was universally admitted to be headquarters for expertise at the commandeering of resources in Clemenceau's time, paid a bitter price for blundering into World War I without taking the precaution of accumulating any inventories of shot and shell beforehand. Instead, it put its trust in the perfectly logical calculation that it would blitz its way to victory without any need to draw on ordnance inventories. Glaring though this error proved to be, the Kaiser's army recovered and went on to fight a formidable four year war, which it almost won in spite of its military planners.

As recently as 1950, miscalculations as glaring as those which proved traumatic, yet not fatal, for the Great German General Staff of 1914, were still readily correctable. In

the second week of June, 1950, Truman's universally respected Chairman of the Joint Chiefs, General Omar Bradley, assured House Armed Services Committee Chairman Carl Vinson that the Pentagon would never again have any need for amphibious craft and, therefore, that it had no plans for ordering any.

This judgment was fated to prove sustainable for about as long as an average official economic forecast: three weeks. Nevertheless, the damage done by this miscalculation of requirements proved retrievable in the simpler, shorter terms of defense planning and production still in force thirty years ago. Shipyards began making up for lost time, and hammering out the missing vessels, about as fast as the training camps began to ship troops for them to carry.

Clearly, our fates and our fortunes are in the hands of the arcane practitioners of the gnomic art of defense planning. They appear, however, to be suffering from a bad case of schizophrenia: unable to decide whether they are reckoning our security requirements in terms of combat ready firepower or the dollar cost of shopping for it. The symptoms of this schizophrenia are putting us on notice that the business of defense planning, to paraphrase Clemenceau, has become too important to be left to defense planners.

Certainly, no quick fixes can still be trusted to retrace wrong turns in defense planning for the 1930s. Long before Jeb Stuart formulated the first rule of warfare as the race it is "to get there fustest with the mostest," and long before Hannibal established his fleet of elephants as the secret weapon of his transalpine blitz, the two ingredients of strategic success have been time and the mobilization of resources in order to steal head starts.

Since the abandonment of SALT and the resumption of the Cold War, the time span of the military mobilization cycle has dramatically lengthened from a standard three-year swing to a ten-year period of gestation (if not necessarily for our adversary, certainly for us). If the evidence furnished by the markets means anything, surely their demoralization is our warning that inflation is still escalating the cost of the accruals, the conversions, the experiments and the casualties built into the arms race. But our cost structure has been inflated, and our physical capacity shrunken, before we multiply a lengthened military mobilization time cycle by an expanded requirements base. The painful preliminaries to the national debate over how to do so are putting a penalty on the risk of every wrong turn—and even of every realistic start.

FAITHFUL FACSIMILE

No country's military apparatus feeds on a social vacuum. Certainly, the Red military establishment is a faithful facsimile of the strengths and the stresses in the Kremlin power structure and the Soviet social structure. By the same token, America's reenactment of the fiasco in the Bay of Pigs in the Iranian desert conjures up routine images of cars stranded with hoods up in highway jams. If America's industrial strength is concentrated in her Buck Rogers technology, and her weakness in her goofball maintenance, it's unrealistic to expect the military apple to fall far from the civilian tree. The Pentagon is bound to be caught in the middle of the same anomaly.

Before our new Cold War triggered the arms race, it flared up as an oil war. America's miscalculations in coping with that challenge were at least as glaring as those of the German Kaiser's generals in 1914 and of the American President's Pentagon in 1950. We fought the oil war on the side of our suppliers, who were gouging us under the guidance of our economic planners; they, in turn, fell for the myth of the oil shortage hook, line

and sinker. Consequently, we spent the 1970's in a slow motion reenactment of the sinking of the Titanic: Going down with the best people. The bookkeepers who were running the auto companies, the engineers who were running the oil companies and the Ph. D.'s in human relations who were making the technical decisions for our government all assured us that the conventional wisdom asserted by our adversaries in the oil war was the wisdom to heed. The result began by leaving us laughably overprepared to put up with the shortage that never was. It ended by leaving us clumsily unprepared to turn the glut that has now developed to our advantage.

Consistency being well known as the hobgoblin of little minds, our defense planners are now busily buttressing our security by practicing economics. Lyndon Johnson was a very funny man, but his jokes were always serious and pointed. When he punctuated the farewell ceremony of a departing economic advisor with the throwaway line that "my economic advisor needs an economic advisor," he reminded us that our political leaders have suffered more political defeats at the hands of their economic advisors than in confrontations with their political opponents.

We have not heeded this sober warning of Johnson's yet. The ongoing spectacle of defense planners basing their projections, and risking this country's security posture, on consensus economic thinking recalls one of those old Wall Street sayings which has become old because it has earned its keep with successive generations of speculators: "Never hold a grudge against anyone who costs you money because you can always get it back; but never forgive anyone who costs you time because you can't ever get it back." If our defense planners persist in consulting our economic oracles about the military mobilization called for by the policies of our political leaders, they will compound miscalculations on where our economy is going. They will not strengthen our economic performance; but they will weaken our military prospects.

Specifically, Secretary of Defense Weinberger has now been beguiled into betting his well-earned reputation for judiciousness in the quantification of costs on the judgment that the projected step-up in defense programming will not be inflationary. More provocative still, he has buttressed this assertion with the calculation that the buildup will account for no more than a fractional increase in the portion of GNP claimed by the Pentagon budget. To judge by comments from the media, including the comments from the financial media, that's the end of it. Perhaps for this very reason, the Administration believes it; though for this very same reason, that formidable silent majority of market participants, whose separate but private money decisions measure the ability of our economy to support the needs of our military, have learned not to believe it. The GNP calculation is not the count that matters.

Inflation is not the measure of muscle, but it is the price we pay for building it. Any buildup in military power which falls to pack an inflationary punch will also fail to pack a military punch. This was true when military technology was still rudimentary enough to permit emergencies to come in cycles. It will be inescapably so now that the non-stop revolution in military technology is outgrowing the traditional cyclical limitation on defense planning. As a matter of fact, the tough talk which President Reagan, Secretary Haig and Secretary Weinberger have mounted against the Red Commanders argues for the Administration not to spare the horses now that the race is on to put muscle, which the Kremlin will respect behind mere mouthings.

INVESTMENT RETURN

The return on a national investment in a military program is firepower bought, not the price paid for it in inflation. Either a military catch-up effort will be formidable enough and, therefore, will be mounted massively enough to impress "our adversary," as President Reagan is now realistic enough to call Russia, or its failure to make waves throughout our economy will signal its failure to make waves inside the Kremlin. The inescapable corollary, however, is that the cost of preempting resources for the purpose of buying that firepower needs to be reckoned in its inflationary impact. Bernard Baruch, that master of the impact of emergency events on inflated markets, taught us these two interrelated lessons before economists got into the habit of using GNP numbers to measure the way the world works.

Devotees of the GNP yardstick for measuring the inflationary impact of defense invariably advance comparisons with the portion of GNP "our adversary" in Moscow allocates to defense. These are meaningless comparisons. There can be no common standard of measurement for the Soviet Union and the U.S. on this score because the Soviet Union never had a GNP to reflect money flows. Our own GNP tabulation is so bloated by money flows which overstate our productivity that it no longer means anything. Russia operates on an arbitrary allocation system, which subjects the production and distribution of goods and services to rigid disciplines, reversing the priorities represented by economic pressures and immeasurable by any money standard.

To take just one fact of productive life in Russia that is in total conflict with a basic fact of economic life in the U.S., the Soviet system clamps a rigid control on interest payments and receipts. By contrast, the American system is structured to stop the reach of emergency wartime controls—even on wages and credit—short of touching interest rates. Surely, no common yardstick for gauging the draft of defense on productivity in the two rival superpowers can pass muster as a tool which reckons without the toll admittedly taken by interest costs here, but arbitrarily suppressed there. Soviet finance stems from Marxist economics which, in turn, the prophet based on the theories of the classical English economists, who made their mark on history without, however, developing a theory of interest. But that is part of another story. To balance their system, which pays off by issuing tickets insulated from interest charges, with our system, which pays off by cloning dollars subject to interest charges, is a juggling act too academically abstract and too strategically reckless to be included in any analysis assessing the use Russia has made of the military head start we have spotted her.

We are already on notice to be wary of statistics-as-usual. The time we have wasted in answering the Soviet challenge and the resources we will need to commandeer in the effort, put us on notice to be wary of bromides that go with business-as-usual. The costly cross-ups between optimistic stimuli offered to the markets in the form of official statistics, and the suspicious responses of those markets, suggest that something is rotten in the kingdom of the computer.

In matters of practical decision-making, answers are never a problem; only questions are. Their relevance determines the practicality of the answers offered. How, in a world dominated by Russia's head start and her challenge to America to launch a catch-up effort, can anyone rest the case for security and survival upon an accounting system which equates a pound of steel bought to go into a tennis racket with a pound of steel bought to go into a machine tool? Our GNP

blurs the distinction. The American accounting system is a statistical exercise dedicated to monetizing the principle formulated in the 14th Amendment which declares all citizens free and equal. The GNP declares all dollars equally productive. In a world miraculously freed from nuclear terror, all dollars would be less unequal than they are today. In the world as it is, however, the GNP, unadjusted for inflation, clocks little more than the rate at which our national product mix is continuing to shift from basic industries suffering shrinkage to self-indulging services expanding by the day. Adjusted for inflation, the GNP understates inflationary reality. So does our budget, it assigns a disarmingly low 7.5 percent rate to interest costs when, in fact, the markets are sandbagging the Treasury with a brutal penalty more than double that rate. The rate of interest, precisely because it is uncontrollable, is the authentic and trustworthy indicator of the real rate of inflation. The single-digit GNP inflator is just a public relations decoy.

The time has come for the Pentagon to put together a shopping list to fit into the shopping bag represented by the pool of resources now available to carry it. Money is the criterion of the inflation we will buy, not of the firepower that we can agree we need. Only an itemization of the physical units of firepower claimed for the program, and their supporting components of productivity, will make sense in translating the dollar terms in which we are conditioned to think into the "real things" our adversary is challenging us to have on the ready. If the shopping list measured in castings, forgings, master mechanics and petty officers won't fit into the present contours of the shopping bag, we will be on notice to find a bigger and better shopping bag by the simple expedient of expanding our industrial base or, alternatively, rationing our resources. We have done this before with sensational success; we can do it again and we will. We need a realistic yardstick to work with and it's not the GNP.

NEED FOR DEFENSE WORK

It's time to bring the debate back to the starting point Baruch identified for it: It's impractical for us to be worrying about the money load the economy can bear; the operational question is how heavy a physical load the Pentagon needs to make it bear. The economy does not need defense work as a crutch; nor is defense work an obstacle in the way of its recovery. If it is time to start catching up in the arms race, it's time to separate what the military will need in the next decade from what the economy can give it without putting our society on rations or inflating the muscle out of it. Preparedness is too important to be left to economists; the economy is too vigorous to need soliloquy from defense planners.

Our "adversary" in Moscow has been invited to stake out the arms race course on which we are undertaking to catch up with her. The choice of weaponry is hers and it is, of course, military. If it were ours, it would be economic and she would have no chance of catching up with us. But with firepower the goal, and with ticketed claims to resources her method of reaching it, we are on notice to graduate from statistical gamesmanship to resources mobilization.

Despite the slump in building, the depression in Detroit and the epidemic of business bankruptcies, the stubborn refusal of interest rates to buckle is a portent of the problem the Pentagon faces in scheduling deliveries. Whether we rely primarily on economic or military weaponry in the stand we now make against "our adversary," the economy is our workhorse. The responsibility of our defense planners is to tell the economy what they want from it, not to promise it what they won't do to it. ●

UNITED STATES-SAUDI ARABIA RELATIONS

● Mr. METZENBAUM. Mr. President, during the debate over selling AWACS, AIM 9-L missiles, and other advanced military technology to Saudi Arabia, the Congress and the people of this country were assured repeatedly by the Reagan administration that the sale would bolster our position in the Middle East.

We were told of a special relationship between our country and Saudi Arabia.

We were informed that the Saudis agree with what President Reagan said to the Washington Post in an interview published on November 1, that:

The greatest threat in the Mideast to both Israel and the Arab States is the Soviet Union.

And we were also told that if only they got these weapons, the Saudis would at long last take a serious interest in peace.

President Reagan said in his November 1 interview:

Saudi Arabia is a leader of the moderate Arab States. I believe that the Saudis are the key to spreading peace throughout the Mideast instead of just having it confined to Israel and Egypt.

Peace, moderation, a special relationship, an anti-Soviet consensus, who could not be for these things?

But, Mr. President, those are not the things we are getting from Saudi Arabia. Far from it. And it is high time to ask just what the Reagan administration thinks is going on.

During the AWACS debate, for example, we were told time and again about the gratitude we ought to feel toward the Saudis for their restraint on oil prices.

But the day after the AWACS sale was approved, our special friends raised the price of oil by \$2 a barrel and cut back production by 1 million barrels a day.

Hobart Rowen wrote in his column of November 8:

Remember the propaganda until now about how the Saudis engineered the oil glut, all for the benefit of the good ole USA. Now, they are beginning to engineer the shortage.

During the AWACS debate, we were assured and reassured of Saudi Arabia's unflinching opposition to Soviet influence in the Middle East.

The Soviets, of course, already have a presence in the region.

The Soviet Union is and has been the military and political patron of Libya, Syria, and Iraq. These are the radical states, the anti-Americans, the diehard opponents of peace.

The Soviet Union has trained and supplied the terrorists of the PLO. And recently, Moscow upgraded the PLO's delinquency to the status of a full-fledged embassy. But the Soviet Union has not in recent years had the influence it once enjoyed in the Middle East.

The late President Sadat kicked the Soviets out of Egypt. And in 1977, rather than let the Soviets back in through the Carter administration's proposed Geneva Conference, Sadat flew to Jerusalem and made peace with Israel.

But now, Mr. President, Saudi Arabia, this special friend of ours, this pillar of

the anti-Soviet consensus, is itself taking the lead in undoing Sadat's work.

The Saudis have done their utmost to wreck the Camp David accords. And now, they are going even beyond that by actively working to bring the Soviet Union back to center stage in the politics of the Middle East.

On November 5, the Saudi Foreign Minister announced his nation's intention to seek a U.N. resolution endorsing the Saudi peace plan. Passage of the resolution would be followed by an international conference on the future of the Middle East, under the auspices of the U.N. Security Council.

What does that mean?

To engage the Security Council means one thing, and that is to reengage the Soviet Union.

And Soviet reengagement is precisely what the Saudis have in mind.

When asked recently if his proposal would lead to negotiations with the Soviet Union, the Saudi Foreign Minister had this to say:

Of course with the Soviet Union. It is part of the Security Council.

So much for the claim that Saudi Arabia stands against Soviet influence. Now, the Saudis are inviting the Soviets into the Middle East, and I submit that is now what we have a right to expect from a country the President describes as "a leader of the moderate Arab States."

In that connection, I want to remind the Senate of a little-noticed statement issued by the Saudi News Agency on January 10, 1980:

There are many States such as the Soviet Union which are only too ready to supply the kingdom with everything it wants. In other words we could easily replace the Americans.

Is this just rhetoric that we are supposed to ignore? Perhaps. But in spite of the Reagan administration's fond hopes to the contrary, the Saudis show a notable lack of enthusiasm for joining an anti-Soviet coalition.

On November 10, for example, at a press conference opening a meeting of the Six-Nation Gulf Cooperation Council, the Saudi Foreign Minister publicly criticized Oman's military cooperation with the United States.

Why?

"Because," said the Saudis, "It's contrary to the principles of nonalignment."

Nonalignment is one thing, Mr. President, and a special relationship with the United States is another. And I am afraid that we are letting Saudi Arabia have it both ways.

Now that, Mr. President, is a fine arrangement for the Saudis.

When they want our top-of-the-line military technology, they are our special friends.

When we want their active help against the Soviet Union, they are nonaligned.

"These people are on a different wavelength," said an American observer at the meeting of the Gulf Cooperation Council. "Apart from Oman, they do not see any immanency to a Soviet threat."

And let me add, Mr. President, that the Saudis do not see any apparent need

to respect, let alone support, this country's political and military interests.

Consider, for example, the spectacle of our alleged friends in Saudi Arabia openly pressuring the European countries to work actively against American policy in the Middle East.

On November 5, less than a week before criticizing Oman's pro-U.S. position, Foreign Minister Prince Saud held another press conference, this time in the company of Britain's Lord Carrington.

The Saudi Prince used that occasion to tell Lord Carrington that Britain should realize that if joining the Sinai peacekeeping force means joining the Camp David peace process, then there will be a contradiction between the European position and the position of the Arab world.

Lord Carrington did not see fit simply to acknowledge the Saudi view. In one of the most craven performances in recent memory by the representative of a supposedly proud country, he positively scurried away from even the implication that Britain could ever in any circumstances differ in the slightest with the House of Saud.

He said:

Britain would participate on the basis of seeing that Arab lands are returned to Arab countries and on no other basis at all.

Noble sentiments, Mr. President, but I cannot help but wonder how Lord Carrington would react to substituting in his statement the word "Irish" for the word "Arab." And I believe that he ought to be reminded of an obvious fact, that if the terrorism of the PLO is somehow legitimate, then so is the terrorism of the IRA.

That point, the issue of legitimizing terrorism, brings me to another area of very great concern, and that is the attitude of Saudi Arabia toward peace in the Middle East.

The President has said that "The Saudis are the key to spreading peace."

If that is the case, and if we take seriously the words of the Saudis themselves, then I am afraid that our hopes for progress toward peace may dwindle in the realm of voodoo foreign policy.

Listen, for example, to what the Saudi leaders have had to say on the subject of peace since the AWACS sale was approved.

Prince Fahd, the heir to the Saudi throne, publicly congratulated President Reagan for confronting the Zionist pressure groups which waged a vicious, desperate battle to prevent passage of the deal.

Prince Fahd said:

What is now required from the present administration is to start the bigger and more important battle it must wage in order to establish a just and comprehensive peace.

Please note, Mr. President, that the Prince did not say requested or hoped for or even expected. He said required.

On November 16, the Washington Post carried an article by David B. Ottaway in which an authoritative official in Saudi Arabia tied to strategic cooperation with the United States to a Middle East settlement on terms dictated by the

Saudis. Everything, he said, "is tied to the peace plan."

If that is achieved, "There is no reason not to have the strategic alliance with the United States that is not possible now."

I am sure that all of us are in favor of waging a battle for a just and comprehensive peace. But the problem is the specifics of Saudi Arabia's version of peace.

Are we talking about a peace that is fair to all? About a peace that will last? Or do we mean what amounts for the people of Israel to the peace of the grave?

Listen to the Saudis.

Camp David? Camp David is a "dead end." Forget about it.

Instead of Camp David, say the Saudis, we should accept a PLO-run Palestinian State, with Jerusalem as its capital.

We should stop casting doubt upon the PLO and its leaders.

And Prince Fahd has said that we should force Israel to accept Saudi principles, including the one that says "Brother Arafat" is the basic numeral in the Middle East equation.

Well, that is a fact, Mr. President. "Brother Arafat" is the basic numeral, the bottom line, or whatever expression we want to use to describe what Saudi policy is really all about.

"Brother Arafat," who a few years ago packed pistols into the General Assembly of the United Nations, heads an organization that has received \$400 million in aid from Saudi Arabia.

That organization has a charter, adopted in 1964, amended in 1968 and reaffirmed in 1977, that explicitly spells out its agenda.

Article 19 states:

The establishment of Israel is fundamentally null and void.

The PLO Charter says:

Armed struggle is the only way to liberate Palestine and is therefore a strategy and not tactics.

And according to "Brother Arafat," the PLO's purpose is "not only the liquidation of an imperialist base, but the obliteration of a society."

The PLO's tune does not change very much.

In 1977, for example, when President Sadat made his trip to Israel, Arafat's response was straightforward. "Blood and struggle," he said. And one of his top assistants stated that any agreement between Egypt and Israel "can be abrogated with a single bullet." That same PLO spokesman, upon hearing of the murder of Sadat, said, "We shake the hand that fired the bullets."

Time and again, Mr. President, we have heard that Israel's intransigence is at the root of the problems of the Middle East.

We hear that from King Hussein of Jordan, who has just concluded an arms deal with the Soviet Union.

We hear it from Saudi Arabia, whose king earlier this year stood in Islam's holiest shrine and called for a jihad, a Holy War, to cleanse Jerusalem of Jews.

In Riyadh, Mr. President, they will not even say the word "Israel," it is "the Zionist entity." And when the Saudi del-

egate to the U.N. stated recent that his country might envision some form of recognition of Israel, he was firmly and publicly repudiated by his home government.

Why?

One reason is the position of the PLO, whose spokesman said recently that a PLO decision to recognize Israel would have to be taken by a Palestinian government on Palestinian land. Israel, in other words, should acquiesce in the establishment of a PLO state and then, maybe, that state will make peace.

That is an absurd position. No Israeli Government could ever accept anything remotely like it, just as no Israeli Government could accept anything remotely like the Saudi plan itself.

Saudi Arabia knows that.

The PLO knows it.

And I hope that our own Government recognizes the difference between wish and reality in the Middle East.

Now that the AWACS debate is behind us, I believe that it is incumbent upon the Reagan administration to reexamine its own extravagant expectations about Saudi Arabia. It is time clearly to define this Nation's political and military interests in the Middle East. And let us now insist, firmly and without equivocation, that expressions of friendship are not enough.

Friendship, Mr. President, is a two-way street. And I submit that Saudi Arabia is not acting the part of a friend of this country.

I say to the Reagan administration that fond hopes, ivory tower concepts, and visions of commercial and strategic sugar plums are no substitute for a tough, hard-headed, and aggressive defense of this Nation's fundamental interests.

We are in danger of forgetting that, Mr. President. And I am profoundly concerned that our policy in the Middle East is on the road to catastrophe. ●

THE ADMINISTRATION'S HOUSING POLICY

● Mr. MITCHELL. Mr. President, the housing industry is one of the biggest victims of the current recession. I am growing increasingly alarmed at the downturn in new home construction and in the sales of existing housing—and at the failure of the administration to respond.

Housing comprises fully 23 percent of the national economy. Yet it is in the biggest slump in the post-war era. The production of new housing is the lowest since 1946. Total housing starts for 1981 are forecast at only 1.06 million units. Despite interest rates that are beginning to fall, economic projections show that 1982 will be another low year, with housing starts not estimated to go beyond 1.2 million to 1.3 million units.

Sales of new single family homes dropped 13 percent from August to September, to an annual rate of 312,000—the lowest rate since the Commerce Department started keeping records in 1963. And that September rate was 45 percent below the sales rate in September 1980.

Moreover, sales of existing homes are at an annual rate of 2 million, a record low. In many cases, sales have only been possible by the assumption of existing mortgages with low interest rates or by seller financing. As a result, real estate agents and brokers are struggling just to stay alive.

Finally, the timber industry is being devastated. Half of it is either shut down or on reduced working hours.

While this administration professes to support business, the private credit markets have only been open to the largest American corporations who want financing for mergers with other companies. Prospective home buyers and small businessmen and women are simply unable to obtain affordable credit.

What has been the administration's response? The Federal Reserve Board intends to continue its course of tight monetary policy, keeping interest rates at high levels. The administration itself is cutting back further and further on Federal housing programs. And the free-market approach is to solve the problems of the industry.

Statements by administration officials confirm that their intent is to get out of housing production altogether. The President's Commission on Housing recently issued its interim report in which a recommendation was made to replace housing production under the section 8, section 202, and public housing programs with a voucher program for low-income families. Recently, the Secretary of Housing and Urban Development, Samuel R. Pierce, Jr., said:

We hope by 1984 or 85, that we will have interest rates down enough so that we won't have to use the voucher system. We hope that maybe we'll even get out of that.

An article appearing in Saturday's Washington Post quoted Secretary Pierce, in an address before the annual convention of the National Association of Realtors, as saying that it was a great time for the realtors to start investing in housing, to buy unsold houses. And he made it clear that real estate firms should not look for any new Federal programs to help them out. The response from the realtors, predictably, was that they cannot afford to buy houses at a time when they are struggling just to maintain their offices.

Mr. President, we cannot simply let the housing industry die on the vine while the economy is in a deep recession and the prospects of relief do not appear promising before spring or summer of next year, at best. Small businesses do not have the means to survive indefinitely. They are doing their best to hang on under difficult circumstances.

Obviously, the great pressure on interest rates stems from the contradictory economics of the administration's program: a tight monetary policy, which shows no signs of relaxation soon, and an expansionary fiscal policy, comprised of tax reductions for some of the Nation's wealthiest businesses and speeded up defense spending for programs whose costs are a matter of great controversy. The administration's most recent economic projections indicate that the 1981 deficit will be nearer \$80 billion than the

\$43 billion the President first promised. And the 1984 balanced budget goal has been abandoned in the face of economic projections which will give us deficits of over \$100 billion.

In the face of these facts, it is essential to take action to ease the tight money policy which is devastating the small business community. It is essential to cast as critical an eye on defense spending as we have at every domestic program. And it is essential that the unwarranted and unwise tax giveaway in the major tax bill be repeated—the \$18 billion break for oil companies would be a good place to start.

One important step which Congress can take to reduce the pressures on interest rates is to bring down the Federal deficit. The administration's policy favoring dramatically increased defense spending coupled with the large tax cut enacted this year may now result in deficits topping \$100 billion in this fiscal year and in 1983 and 1984. Clearly, deficit spending of that magnitude will only keep the pressures on interest rates. Congress can make a positive contribution by bringing down the deficit, by spreading reductions in the Defense Department's budget as well as in domestic programs, and by repealing the large tax break given to the oil industry.

Further, the Federal Reserve Board should ease its policy of tight money. Such a policy cannot alone combat inflation—and it is contradictory to the expansionary fiscal policy that the administration has chosen.

Mr. President, the article I mentioned earlier is illustrative of the administration's failure to respond to the crisis in the housing industry and of its intention to extricate itself from Federal housing programs to the maximum extent possible. I ask that the article be printed in the RECORD at this point.

The article follows:

[From the Washington Post, Nov. 21, 1981]

REALTORS URGED TO BUY HOUSES

(By Sandra Evans Teeley)

MIAMI.—Realtors looking for federal cures for their depression-ridden industry got only one new prescription from the Reagan administration at their annual convention here: heal thyself.

Secretary of Housing and Urban Development Samuel Pierce offered the group—depleted in number by this year's deep housing slump—a simple plan for improving record-low home-sales figures without the help of costly federal programs.

Realtors, Pierce told them, should start buying the homes themselves.

In line with the administration's free-market, private-sector emphasis, Pierce outlined a number of ways the federal government plans to diminish its role in the housing market generally and made it clear that real estate firms should not look for any new programs to help them out.

But he did advise members of the National Association of Realtors that this is a great time for them to "reach out for new horizons" and start investing in housing. Particularly with recently enacted legislation for faster tax depreciation, this could be a good way for them to make money from investment property, Pierce indicated.

"I am suggesting that those Realtors that have been hit hard by diminishing commission income should think about the opportunity and incentive to become the provid-

ers of private-sector housing," he told the audience of 1,000 Realtors. "Certainly there are risks, and interest rates are still high," but these are starting to decline, he said.

Some delegates reacted with bitterness to the suggestion that barely surviving businesses can get into the buyers' market in a big way.

"With what?" retorted one broker from Colorado Springs, Colo. "Nobody has any money to do it. It takes everything we've got just to maintain our offices."

J. D. Sawyer of Naples, Fla., said Pierce had an interesting idea but, when asked if anyone in his area is doing more investing, he shook his head. "Nobody has the money," Sawyer said, adding: "Everyone is scared" of buying now.

There are those, including some in the Washington area, however, that say they are starting to buy properties at bargain-basement prices, counting on tapping future appreciation when interest rates drop and people start buying again.

Jack Shafran of Better Homes Realty in Northern Virginia, for example, reported that his firm is buying now for investment, and Mike Brenneman of Brenneman Associates said he is starting a syndication to pool investors' funds to take advantage of depressed prices in the Washington area.

The convention drew far fewer Realtors than in past years, a reflection of the current housing slump. Since 1978, as the housing market has worsened, the numbers attending have dropped, from about 27,000 in Honolulu four years ago to about 11,000 here this year. In addition, membership in the organization—which says it is the country's largest trade association—has dropped over the past year from 740,000 to 691,000.

The convention programs were a sign of the times. Seminars on creative financing techniques were well attended, as were talks on the use of computers and office management.

Other lectures were pep talks, such as one on "How to Overcome the Psychology of Recession"—a combination of Vince Lombardi and Norman Vincent Peale.

For those already overcome by the reality of recession there were talks on how to successfully reduce the size of one's company, auctioning off properties for quick cash, and how to assess the worth of one's real estate office, presumably of the most interest to those wanting to sell.

And, perhaps for those looking for semidivine inspiration, there was Tim Foley, retired strong safety for the Miami Dolphins, who was booked to talk about "Celestial Meditations of a Fully Depreciated Athlete."

For many, the approximately 140 educational seminars being offered at the convention were far more important than the speeches and policy pronouncement by federal officials, delegates said. Veterans of previous conventions reported that this was generally a more serious crowd than in the past, intent on learning new ways to improve business or in some cases just to stay alive professionally.

In addition, the members who attended the convention were likely to be successful in their businesses, some said, because they were the only ones who could afford to go.

Some exhibitors said they had displays this year, not so much in hope of building business, but so competitors wouldn't spread the word that they were doing badly. In addition, the usual bragging about sales figures was totally absent this year, others noted.

"People are groping" for better business methods, said Bette June Ingham of Washington's Ingham & Associates.

"It's a hard-working group. They want to learn," added Kenneth J. Luchs of Shannon & Luchs.

Not all the news from the convention was

bad. The meeting came at a time when interest rates have started to fall, and forecasts are for an upturn in the market.

"I do think we have hit bottom," said NAR Chief Economist Jack Carlson, with sales of existing homes running at an annual rate of about 2 million. Sales will start to pick up slowly this winter and then increase at a faster pace starting in the spring, Carlson predicted.

The new NAR forecasts put sales at 2.75 million in mid-1982 and at 3.5 million by mid-1983. "The worst times are behind us. Improvement is coming," Carlson said.

He said he expects to see conventional mortgage interest rates fall to 14 or 15 percent by spring from the current 17 to 18 percent.

The group also released a survey showing that true interest rates being paid by most buyers are 12 to 14 percent now, because of creative financing techniques. About 60 percent of all existing home sales involve creative financing, the survey showed, the most common being assumptions of old low-interest mortgages and seller financing.

While the convention was in progress, the government also announced it is reducing interest rates on FHA- and VA-insured mortgages by one percentage point for most types of loans. For single-family home mortgages, the rate was reduced from 16½ to 15½ percent.

Despite the favorable signs, the White House received a dose of criticism from the predominantly Republican group. At the start of the convention, Carlson launched a wide-ranging attack on the administration, deploring what he called its "antihousing policy." He cited large tax cuts that he said gave a bigger boost to investments other than housing, deregulation plans for savings and loans that would allow them to commit fewer funds to home mortgages, and talk among "key people" of limiting mortgage interest deductibility.

NAR President John R. Wood later tried to dispel the impression that the traditionally conservative organization is opposing the administration generally, but he ended up criticizing the White House for having no housing policy at all.

"It's more a lack of a housing policy" than antihousing actions that members are concerned about, Wood told reporters. "There used to be a housing policy in this country, and we see that fading."

The Realtors—about 90 percent of whom voted for Ronald Reagan for president, according to NAR figures—got little by way of reassurances of action geared specifically to stimulating housing from the administration or other federal officials.

HUD Secretary Pierce emphasized that the administration is counting on its overall economic policy to reduce inflation and interest rates and therefore ultimately help housing.

To the disappointment of many members, Federal Reserve Board Chairman Paul A. Volcker remained steadfast in his refusal to allow money growth to increase faster, despite the Realtors' call for loosening restraints slightly in the hope of bringing interest rates down faster.

The convention delegates clearly put a balanced budget at the top of their list of federal policies they are pushing, clapping loudest and loudest any time that elusive goal was mentioned.

Pierce asked about Carlson's charge of an anti-housing policy, mentioned budget considerations, as well.

"I believe [the Realtors] know we don't have an antihousing policy. . . . We've tried to get interest rates down," he said. "There can't be any new building programs. It's just not in the cards, because it costs too much." ●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I am prepared now to proceed to a number of matters that are routine in the main, if no other Senator has a requirement for time in morning business.

ORDER AUTHORIZING CERTAIN ACTION DURING RECESS OF SENATE

Mr. BAKER. Mr. President, this request, I believe, has been cleared on the other side. I ask unanimous consent that during the recess of the Senate over until Tuesday, November 24, 1981, messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred and that the Vice President and President pro tempore and Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

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

ORDER FOR THE RECOGNITION OF SENATOR FORD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, the Senator from Kentucky (Mr. FORD) be recognized on special order for not to exceed 15 minutes.

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

AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 1098 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1098) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, 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 all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

THE CONFERENCE REPORT ON THE NASA AUTHORIZATION

Mr. CANNON. Mr. President, today the distinguished chairman of the Committee on Commerce, Science, and Transportation, my valued colleague, Bob

PACKWOOD, has filed a conference report, reconciling the House and Senate NASA authorization levels in S. 1098 as amended. The conference of managers agreed to an authorization level which restored \$50 million of the administration's originally requested reduction of \$603 million from NASA's fiscal year 1982 budget as submitted to the Congress in January 1981.

This conference report should convey a message of importance. For myself, I think its importance lies in communicating to our respective Chambers and to the administration the commitment of the House and Senate authorizing committees for the NASA budget to the support of a strong civilian space and aeronautics program to fulfill the purposes of the National Aeronautics and Space Act of 1958.

Those purposes are no less important to our Nation today than they were when first set forth. But suddenly, in the face of worldwide and national acclaim for the delayed but spectacular establishment of mankind's first space transportation capability, we are confronted by an administration attitude, clearly signalled in its proposed 1983 and 1984 budget reductions of a billion dollars each year, which may lead to virtual abandonment of those goals and decimation of the agency charged with their attainment.

In a dynamic world of shifting attitudes and mores, in which the standing of our Nation has suffered severely, our space achievements have provided our one renewable hold on the respect and good will of peoples all over our planet. For the young in years among our own people, NASA's achievements have renewed their confidence in the Nation's otherwise waning commitment to science and discovery. And to the young in heart of all ages, our space achievements have reassured them that their Government, whatever its faults, can still respond to and help fulfill some of our people's highest aspirations.

But, many will say, we are faced by an economic crisis in which, for the time being, economic considerations must transcend all others. Because I understand and, indeed, share that view in many respects, let me focus briefly on that one form of NASA's return on investments, namely, massive contributions to our economy from our aviation industry, which can help alleviate our economic crisis.

Which of us, had we been here when NACA—the forerunner of NASA—was first authorized, would have imagined, or believed—if one of us had imagined—that in 1980 the Nation's aviation industry would:

Contribute over \$13 billion net to our trade balance.

Provide 1.3 million full-time jobs distributed throughout our 50 States.

Market about \$100 billion in products and services—which at nominal earning levels would return \$2 to \$3 billion to the Federal Treasury.

Carry 273 million passengers on its regularly scheduled airline flights in the United States without a passenger fatality—except in commuter class service.

The substance of that summary may not be new to any of you. But I ask you now to view its implications in the context of NASA's space program which now dominates that agency's budget. The competitive muscle of the U.S. aviation industry is the advanced technology developed through NASA. We have more reason now to believe that economic expansion into space activities will take place in the future than our predecessors had to believe in aviation's economic achievements for our time.

Typical of those activities will be communications, remote land and ocean sensing and exploration by satellite, advanced materials processing for metallurgical and pharmaceutical needs, solar power development and others unsuspected today. That economic expansion may well dwarf what we have experienced in earthbound aviation. With that beacon already there to guide us, we should not deny our offspring that expectation for their future.

Mr. President, it is my hope that our colleagues will share my sentiments and accept this conference report which conveys an unmistakable message of our support of NASA to the Congress, to the administration, and to the public.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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.

THE 100TH ANNIVERSARY OF THE BIRTH OF FRANKLIN DELANO ROOSEVELT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 220, a resolution providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 220) providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt.

There being no objection, the Senate proceeded to consider the concurrent resolution.

The preamble was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 220) was considered and agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

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.

(Later the following occurred:)

Mr. BAKER. Mr. President, I am ad-

vised that there is a request to vitiate the action just taken by the Senate in respect to House Concurrent Resolution 220. Mr. President, I ask unanimous consent that the action taken in the adoption of House Concurrent Resolution 220, a resolution providing for the commemoration of the 100th anniversary of the birth of Franklin Delano Roosevelt, be vitiated and that the measure be held at the desk pending further disposition of the Senate.

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

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session.

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

NATIONAL LABOR RELATIONS BOARD

Mr. BAKER. Mr. President, I send to the desk a resolution discharging the Committee on Labor and Human Resources of the nomination of John R. Van de Water to be a member of the National Labor Relations Board, and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, on behalf of Senators on my side of the aisle I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. I thank the minority leader.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are nominations on today's Executive Calendar beginning at page 2, continuing through page 3 through Nominations Placed on the Secretary's Desk which are cleared on our side for consideration. I inquire of the minority leader if he is in a position to consider those items at this time.

Mr. ROBERT C. BYRD. Will the distinguished majority leader repeat his request?

Mr. BAKER. Mr. President, the request was for the Executive Calendar for today on nominations beginning on page 2, under Department of State, continuing through page 3, including Nominations Placed on the Secretary's Desk in the Air Force and Navy.

Mr. ROBERT C. BYRD. Mr. President, the aforementioned nominations have been cleared on this side.

Mr. BAKER. Mr. President, I thank the distinguished minority leader.

Mr. President, I ask unanimous consent that the nominations just identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Edwin Gharst Corr, of Oklahoma, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

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.

DEPARTMENT OF DEFENSE

Melvyn R. Paisley, of Washington, to be an Assistant Secretary of the Navy.

U.S. ARMY

Lt. Gen. Richard Hulbert Groves, to be Lieutenant general.

CALIFORNIA DEBRIS COMMISSION

Brig. Gen. Homer Johnstone, Jr., Corps of Engineers, Col. Paul Bazilwicz, Jr., Corps of Engineers, and Col. Paul Frederick Kavanaugh, Corps of Engineers, to be members of the California Debris Commission, under the provisions of section 1 of an act of Congress approved Mar. 1, 1893 (27 Stat. 507) (33 U.S.C. 661).

MISSISSIPPI RIVER COMMISSION

Maj. Gen. William Edgar Read, to be a member and president of the Mississippi River Commission.

Maj. Gen. Hugh Granville Robinson and Brig. Gen. Richard Samuel Kern, to be members of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved June 28, 1879 (21 Stat. 37) (33 U.S.C. 642).

Rickey Dale James, of Missouri, to be a member of the Mississippi River Commission for a term of 9 years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE AND NAVY

Air Force nominations beginning Ernest Z. Adelman, to be colonel, and ending Richard B. Yules, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 1981.

Navy nominations beginning Hugh Highland, to be commander, and ending Craig Winters, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 1981.

Navy nominations beginning Charles Ervin Aaker, to be commander, and ending Anne Marie Nelson, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on November 9, 1981.

Navy nominations beginning Michael A. Harwell, to be lieutenant commander, and ending Ronald P. Howell, to be ensign, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 1981.

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

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

Mr. BAKER. Mr. President, is there an order for the Senate to convene tomorrow?

The PRESIDING OFFICER. There is an order for the Senate to convene at 11 o'clock.

Mr. BAKER. I thank the Chair.

ORDERS FOR TUESDAY

Mr. BAKER. Mr. President, after the Senate convenes at 11 o'clock and after the recognition of the two leaders under the standing order, the distinguished Senator from Kentucky, Mr. FORD, will be recognized on special order for not to exceed 15 minutes.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. President, I ask unanimous consent that, after the expiration of time for Senator FORD under the special order, there be a brief period for the transaction of routine morning business for not to exceed 20 minutes in which Senators may speak for not more than 2 minutes each.

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

Mr. BAKER. Mr. President, after the expiration of the time for the transaction of routine morning business, it is hoped that the Senate can transact other business which may be available for action by unanimous consent. It is not expected, however, that there will be roll-call votes tomorrow.

RECOGNITION OF SENATOR DANFORTH

Mr. President, I ask unanimous consent that the distinguished Senator from Missouri (Mr. DANFORTH) be recognized on special order for not to exceed 15 minutes to follow after the Senator from Kentucky (Mr. FORD).

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

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no further business to be transacted by the Senate. I ask the distinguished minority leader if he has any other matter to address to the Senate.

Mr. ROBERT C. BYRD. Mr. President, I have nothing.

Mr. BAKER. Mr. President, I thank the distinguished minority leader.

Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 11 o'clock tomorrow.

The motion was agreed to; and, at 5:52 p.m., the Senate recessed until Tuesday, November 24, 1981, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate November 23, 1981:

DEPARTMENT OF STATE

Franklin S. Forsberg, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Sweden.

THE JUDICIARY

Israel Leo Glasser, of New York, to be U.S. district judge for the eastern district of New York vice Jacob Mishler, retired.

DEPARTMENT OF JUSTICE

Joseph S. Cage, Jr., of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years vice Joseph Ransdell Keene.

Gene S. Anderson, of Washington, to be U.S. attorney for the western district of Washington for the term of 4 years vice John C. Merkel, Jr., term expired.

David A. Faber, of West Virginia, to be U.S. attorney for the southern district of West Virginia for the term of 4 years vice Robert B. King, resigned.

James L. Meyers, of Louisiana, to be U.S. Marshall for the middle district of Louisiana for the term of 4 years vice Thomas A. Grace, Jr., retired.

William I. Berryhill, Jr., of North Carolina, to be U.S. Marshall for the eastern district of North Carolina for the term of 4 years vice Hugh Salter, term expired.

Wayne D. Beaman, of Virginia, to be U.S. Marshall for the western District of Virginia for the term of 4 years vice Paul J. Puckett, term expired.

MISSISSIPPI RIVER COMMISSION

Rear Adm. Herbert R. Lippold, Jr., National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission, vice Rear Adm. Allen L. Powell, retired.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Abbott, Thomas F. [REDACTED]

Abe, Harry H. [REDACTED]

Abeln, Paul J. [REDACTED]

Abraham, Robert B. [REDACTED]

Adamchak, Thomas C. [REDACTED]

Adkins, Lloyd H. [REDACTED]

Allbee, Carl M. [REDACTED]

Amsy, David C. [REDACTED]

Anderson, Claude R. [REDACTED]

Anderson, Lawrence B. [REDACTED]

Andreassen, Clell [REDACTED]

Anzures, Armando [REDACTED]

Arakaki, Jiro D. [REDACTED]

Arenz, Terry R. [REDACTED]

Arterburn, Ernest R. [REDACTED]

Augustus, Peter, III [REDACTED]

Aylsworth, William E. [REDACTED]

Baños, Thomas M. [REDACTED]

Baldwin, John F. [REDACTED]

Barger, Alphonso S., Jr. [REDACTED]

Barnett, Ronald G. [REDACTED]

Barnhart, Joseph H. [REDACTED]

Bell, Henry H., Jr. [REDACTED]

Berger, Eugene A., Jr. [REDACTED]

Berliam, Robert A. [REDACTED]

Bertocchi, Robert P. [REDACTED]

Bienvenus, Donald D. [REDACTED]

Blester, John E., Jr. [REDACTED]

Bigelow, Edson F. [REDACTED]

Blackmore, Ronald E. [REDACTED]

Blankenheim, Henry J. [REDACTED]

Bleakley, Lance D. [REDACTED]

Blessing, David A. [REDACTED]

Bock, Robert D., Jr. [REDACTED]

Bodson, Charles D. [REDACTED]

Bonner, Russell H., Jr. [REDACTED]

Boomer, Ronald J. [REDACTED]

Bothwell, Bruce E. [REDACTED]

Bourassa, Rower L. [REDACTED]

Bowers, Richard W. [REDACTED]

Bowling, Gwlyn J. [REDACTED]

Boydston, Theodore S. [REDACTED]

Bozeman, Tandy K. [REDACTED]

Bradley, John R. [REDACTED]

Breeden, George M., III [REDACTED]

Brettie, Emile P., III [REDACTED]

Brinevar, Cecil [REDACTED]

Brocklehurst, John A., Sr. [REDACTED]

Broan, Henry N. B. [REDACTED]

Broome, Donald W. [REDACTED]

Browder, Charles L., Jr. [REDACTED]

Brower, Richard W. [REDACTED]
 Brown, Charles W. [REDACTED]
 Brown, John L. [REDACTED]
 Brown, Lamar P. [REDACTED]
 Brown, Phillip R. [REDACTED]
 Brown, Thomas R. [REDACTED]
 Bryant, Dale W. [REDACTED]
 Buchanan, George S. [REDACTED]
 Buettner, Gerald F. [REDACTED]
 Burmeister, Albert L., Jr. [REDACTED]
 Burnett, Charles L. [REDACTED]
 Burton, Michael L. [REDACTED]
 Bush, Robert E. [REDACTED]
 Butler, Michael E. [REDACTED]
 Byrne, Martin J. [REDACTED]
 Cameron, Albert A. [REDACTED]
 Cameron, David A. [REDACTED]
 Campbell, Patrick K. [REDACTED]
 Carter, David C. [REDACTED]
 Case, Martin V., Jr. [REDACTED]
 Chaikley, Craig W. [REDACTED]
 Chambers, Robert L. [REDACTED]
 Chappell, Hubert H. [REDACTED]
 Cleale, Edward J. [REDACTED]
 Clapp, Roger C. [REDACTED]
 Clark, Hugh A., Jr. [REDACTED]
 Clary, John D., Jr. [REDACTED]
 Cline, Charles M., Jr. [REDACTED]
 Clougher, Thomas A. [REDACTED]
 Cody, Harold J. [REDACTED]
 Coffland, Colin M. [REDACTED]
 Collette, Alban E. [REDACTED]
 Collins, Edward R. [REDACTED]
 Connelly, Joseph R. [REDACTED]
 Conner, Leslie L., Jr. [REDACTED]
 Cope, Thomas L. [REDACTED]
 Coughlin, John J. [REDACTED]
 Cox, Clint R. [REDACTED]
 Craig, Gary L. [REDACTED]
 Crain, Jimmie G. [REDACTED]
 Crosley, Verlin E. [REDACTED]
 Cross, Thomas J. [REDACTED]
 Crowley, Wayne J. [REDACTED]
 Crutchfield, Philip W. [REDACTED]
 Cupples, Barry L. [REDACTED]
 Daeke, Ray N. [REDACTED]
 Dally, David W. [REDACTED]
 Dalton, Donald [REDACTED]
 Daniels, Ralph E. [REDACTED]
 Davis, Wesley H. [REDACTED]
 Day, Alvin L. [REDACTED]
 Denney, Elton L. [REDACTED]
 Depp, Raymond L. [REDACTED]
 Diehl, Donald B., Jr. [REDACTED]
 Dietrich, Aloysius J. [REDACTED]
 Dimuro, John A. [REDACTED]
 Dittrich, Mark S. [REDACTED]
 Dodd, Donald B. [REDACTED]
 Doucette, Richard [REDACTED]
 Downing, Lawrence W. [REDACTED]
 Drapeau, David G. [REDACTED]
 Drury, Martin A. [REDACTED]
 Dudley, William A. [REDACTED]
 Dugan, Francis D. [REDACTED]
 Duhamel, Guy P. [REDACTED]
 Earnest, Kenneth H. [REDACTED]
 Easter, William R. [REDACTED]
 Eaton, Robert G. [REDACTED]
 Edel, Robert P. [REDACTED]
 Edgar, Robert N. [REDACTED]
 Edwards, Norman B. [REDACTED]
 Elde, Brian L. [REDACTED]
 Eling, Paul P. [REDACTED]
 Elliott, Philip R. [REDACTED]
 Elrod, Ralph L. [REDACTED]
 Engelstad, Edwin K. [REDACTED]
 Ennis, William C. [REDACTED]
 Estep, Charles D. [REDACTED]
 Faust, Donald R. [REDACTED]
 Ferguson, Charles M. [REDACTED]
 Ferrante, Victor A. [REDACTED]
 Ferrell, Harry D. [REDACTED]
 Fetter, Kenneth L., Jr. [REDACTED]
 Fisher, Michael P. [REDACTED]
 Flanagan, John F., Jr. [REDACTED]
 Flvnn, Edward J., Jr. [REDACTED]
 Foley, William H., Jr. [REDACTED]
 Ford, Clayton H. [REDACTED]
 Francis, John H. [REDACTED]
 Freely, William B. [REDACTED]
 French, Gale H. [REDACTED]
 Frenette, Franklin A. P. [REDACTED]
 Fretwell, Kenneth H., Jr. [REDACTED]
 Frucht, Walter M. [REDACTED]
 Fuhr, Donald C. [REDACTED]
 Gaddy, Robert E. [REDACTED]
 Garland, Edward W. [REDACTED]
 Gavin, Joseph J. [REDACTED]
 Gay, Roy C. [REDACTED]
 Gelhs, Paul A. [REDACTED]
 Gillen, Joseph W. [REDACTED]
 Gobbo, Eugene C. [REDACTED]
 Godsey, Henry R. [REDACTED]
 Goldsmith, Arnold S. [REDACTED]
 Gonsior, Bobby L. [REDACTED]
 Goodwin, John B. [REDACTED]
 Gotchef, Edward J. [REDACTED]
 Goudie, Lawrence A. [REDACTED]
 Gould, Kenneth E. [REDACTED]
 Granado, Alfonso R. [REDACTED]
 Gray, Dennis M. [REDACTED]
 Green, Billy L. [REDACTED]
 Greenberg, Jonathan, Jr. [REDACTED]
 Greenwood, James A. [REDACTED]
 Grenier, Daniel R. [REDACTED]
 Greytak, James M. [REDACTED]
 Griggs, William P. [REDACTED]
 Gritten, Philip D. [REDACTED]
 Groot, Gary L. [REDACTED]
 Haap, Frederick, III [REDACTED]
 Hagen, Richard S. [REDACTED]
 Hahn, Arthur L. [REDACTED]
 Hamilton, John F., Jr. [REDACTED]
 Hammersten, Paul M. [REDACTED]
 Hanreeder, Paul W. [REDACTED]
 Harper, Lawrence R. [REDACTED]
 Harrell, Percy W. [REDACTED]
 Harris, George W. [REDACTED]
 Hartley, Edwin D. [REDACTED]
 Harvey, John F. [REDACTED]
 Hashimoto, Paul H. [REDACTED]
 Hatcher, Walter T., III [REDACTED]
 Hathaway, William H. [REDACTED]
 Hayward, William L. [REDACTED]
 Heineck, David L. [REDACTED]
 Heinemann, Frederick C. [REDACTED]
 Henrie, Bernard G. [REDACTED]
 Herman, Keith E. [REDACTED]
 Herndon, Thommie D. [REDACTED]
 Hewes, William E. [REDACTED]
 Hill, James L. [REDACTED]
 Holbrook, W. Reed [REDACTED]
 Holder, Richard W. [REDACTED]
 Holder, William L. [REDACTED]
 Holtgrave, Frederick W. [REDACTED]
 Hood, David J. [REDACTED]
 Hudenburg, Donald P. [REDACTED]
 Huffman, Ronald P. [REDACTED]
 Hughes, Joseph M., III [REDACTED]
 Hunt, James A., Jr. [REDACTED]
 Hunter, Richard L. [REDACTED]
 Hurley, John A. [REDACTED]
 Hutchinson, Leonard T. [REDACTED]
 Inman, James E. [REDACTED]
 Irwin, George R. [REDACTED]
 Irwin, Thomas K., III [REDACTED]
 Jacobson, Arthur E. [REDACTED]
 Jakes, Lawrence H. [REDACTED]
 Jander, Klaus H. [REDACTED]
 Jankowski, Alan J. [REDACTED]
 Javins, Ralph B. [REDACTED]
 Johnson, Earnest D. [REDACTED]
 Johnson, Gene H. [REDACTED]
 Johnson, Jay A. [REDACTED]
 Johnson, Jay R. [REDACTED]
 Johnson, Oscar F. [REDACTED]
 Johnson, Stanley G. [REDACTED]
 Johnson, Zane C. [REDACTED]
 Joy, Patrick G. [REDACTED]
 Jungst, Edwin T. [REDACTED]
 Justice, Neal E. [REDACTED]
 Kantz, Samuel S. [REDACTED]
 Keller, David W. [REDACTED]
 Kendall, William A. [REDACTED]
 Kendrick, Moss H., Jr. [REDACTED]
 Kennard, Dwight [REDACTED]
 Kennedy, Randolph M. [REDACTED]
 Kenpen, Keith H. [REDACTED]
 Kerner, George M. [REDACTED]
 King, William H. [REDACTED]
 Kirsch, Loren H. [REDACTED]
 Kopka, Richard W. [REDACTED]
 Kovar, John A. [REDACTED]
 Koven, Edward W. [REDACTED]
 Kracht, Lavern J. [REDACTED]
 Kramer, Bruce M. [REDACTED]
 Kramer, Carroll R. [REDACTED]
 Kramer, Ronald M. [REDACTED]
 Krantz, Andrew D. [REDACTED]
 Krebs, David A. [REDACTED]
 Kreglo, Alan J. [REDACTED]
 Kreh, David H. [REDACTED]
 Krick, Roger L. [REDACTED]
 Labeck, Marvin F. [REDACTED]
 LaFollette, William R. [REDACTED]
 Lancaster, John L. [REDACTED]
 Landry, Gary G. [REDACTED]
 Lang, Anthony R. [REDACTED]
 Lardas, Thomas E. [REDACTED]
 Launder, John E. [REDACTED]
 Lawson, William H. [REDACTED]
 Lebo, Jerry L. [REDACTED]
 Lebsack, Raymond L. [REDACTED]
 Lee, Michael R. [REDACTED]
 Lehr, Kenneth A. [REDACTED]
 Lheureux, Richard A. [REDACTED]
 Lloyd, Harold C., Jr. [REDACTED]
 Loeffler, Robert I. [REDACTED]
 Londergan, James P. [REDACTED]
 Longerbeam, Floyd T. [REDACTED]
 Lorentz, Donald P. [REDACTED]
 Lounsbury, Daniel P. [REDACTED]
 Lucas, James W. [REDACTED]
 Luce, Charles E. [REDACTED]
 Luther, Charles R. [REDACTED]
 Lyle, Clayton B., III [REDACTED]
 Lyon, Samuel D., Jr. [REDACTED]
 Madden, John M. [REDACTED]
 Mandel, John S. [REDACTED]
 Mankel, George W., Jr. [REDACTED]
 Maril, David R. [REDACTED]
 Markey, Martin J. [REDACTED]
 Markle, Phillip W. [REDACTED]
 Marshall, Robert E. [REDACTED]
 Marston, John T. [REDACTED]
 Marston, Michael V. [REDACTED]
 Martin, Donald F. [REDACTED]
 Martin, Donald R. [REDACTED]
 Masters, Richard L. [REDACTED]
 Mathis, Roy E. [REDACTED]
 Matteson, David M. [REDACTED]
 Matke, Roy N. [REDACTED]
 Matusevic, Felix W. [REDACTED]
 Mauden, Brian D. [REDACTED]
 Mayhugh, Gilbert M. [REDACTED]
 Maynard, Harold F. [REDACTED]
 Mayo, Dale Q. [REDACTED]
 Mayo, James R. [REDACTED]
 Mays, Charles E. [REDACTED]
 McBride, James, Jr. [REDACTED]
 McCann, Roy N. [REDACTED]
 McCormick, Hugh C. [REDACTED]
 McCory, Glenn H., Jr. [REDACTED]
 McCurdy, Thomas P. [REDACTED]
 McDowell, Alan J., Jr. [REDACTED]
 McFarland, Marshall J. [REDACTED]
 McGee, Ray M. [REDACTED]
 McIntosh, Robert A. [REDACTED]
 McKellar, George W. [REDACTED]
 McKown, Michael R. [REDACTED]
 McManus, Henry S. [REDACTED]
 McWilliams, Carey E. [REDACTED]
 Metzger, Frank L. [REDACTED]
 Meyer, Lyle H., Jr. [REDACTED]
 Miller, David G. [REDACTED]
 Miller, John W. [REDACTED]
 Mills, Melvin E. [REDACTED]
 Moffatt, Leonard J., Jr. [REDACTED]
 Monachino, Joseph V. [REDACTED]
 Monoyios, Louis E. [REDACTED]
 Montague, Richard S. [REDACTED]
 Montgomery, Alan P. [REDACTED]
 Moon, Henry C. [REDACTED]
 Moore, Alvin D. [REDACTED]
 Moore, David R. [REDACTED]
 Moore, Lawrence, Jr. [REDACTED]
 Moore, Robert H. [REDACTED]
 Moore, Teddy D. [REDACTED]
 Morgan, Wallace M., Jr. [REDACTED]
 Morris, David G. [REDACTED]

Morse, William H., [REDACTED]
 Moseley, Harry A., Jr., [REDACTED]
 Motzny, Kenneth G., [REDACTED]
 Mulder, Grant R., [REDACTED]
 Namlick, Anthony J., [REDACTED]
 Nash, Ivan, III, [REDACTED]
 Nelson, Wayne N., [REDACTED]
 Neubert, Dennis A., [REDACTED]
 Nichols, Carney D., [REDACTED]
 Nielsen, Jerry L., [REDACTED]
 Nix, Richard G., [REDACTED]
 November, Peter C., [REDACTED]
 Nunnally, Edward R., Jr., [REDACTED]
 Ober, Russell T., III, [REDACTED]
 O'Dell, Lawrence W., [REDACTED]
 O'Dowd, John S., [REDACTED]
 Olsen, Mark J., [REDACTED]
 O'Neill, David S., [REDACTED]
 Oshiro, John I., [REDACTED]
 Ott, Thomas B., [REDACTED]
 Owen, Kent W., [REDACTED]
 Oxley, Arthur R., [REDACTED]
 Panella, Robert F., [REDACTED]
 Parise, Robert D., [REDACTED]
 Parker, Eben H., [REDACTED]
 Pattillo, Albert D., Jr., [REDACTED]
 Paye, Donald D., [REDACTED]
 Perks, Karl L., Jr., [REDACTED]
 Petty, David L., [REDACTED]
 Pfeiffer, William A., Jr., [REDACTED]
 Phillips, James H., [REDACTED]
 Place, Denny L., [REDACTED]
 Porten, Ronald E., [REDACTED]
 Pritchard, Cannon H., [REDACTED]
 Prunty, Howard F., [REDACTED]
 Putnam, Bobby R., [REDACTED]
 Rackley, Victor D., [REDACTED]
 Rahn, John M., [REDACTED]
 Rambo, Stephen W., [REDACTED]
 Ramirez, Joe, [REDACTED]
 Randall, Ernest T., [REDACTED]
 Rankin, Jerry R., [REDACTED]
 Rasmussen, Gaylord F., [REDACTED]
 Reding, Jack K., [REDACTED]
 Regan, Michael J., [REDACTED]
 Reighley, Fenton J., Jr., [REDACTED]
 Relfe, Julien M., Jr., [REDACTED]
 Reutter, Joseph C., [REDACTED]
 Reynolds, Phillip C., [REDACTED]
 Rice, Gilbert E., [REDACTED]
 Rice, Ira J., Jr., [REDACTED]
 Rice, Richard H., [REDACTED]
 Rich, Myron J., [REDACTED]
 Rieger, Harland K., [REDACTED]
 Riggs, Frank L., [REDACTED]
 Ritter, Daniel J., [REDACTED]
 Ritzer, Allan E., [REDACTED]
 Roberts, David L., [REDACTED]
 Robertson, Billie R., [REDACTED]
 Robichaux, Hubert R., [REDACTED]
 Robinson, Perry M., [REDACTED]
 Rodriguez, Gerardo, [REDACTED]
 Ross, Paul C., [REDACTED]
 Rudy, John F., II, [REDACTED]
 Rutkowski, Robert E., [REDACTED]
 Ryder, Randolph C., Jr., [REDACTED]
 Saline, Joseph P., Jr., [REDACTED]
 Sanders, David W., [REDACTED]
 Sanderson, Rex F., [REDACTED]
 Sansbury, Chester E., [REDACTED]
 Sansom, John S., [REDACTED]
 Sargent, Paul C., [REDACTED]
 Sarjeant, John B., [REDACTED]
 Savena, James R., [REDACTED]
 Saverance, John F., [REDACTED]
 Sawyer, Robert C., [REDACTED]
 Schanupp, David E., [REDACTED]
 Schrader, Carl D., [REDACTED]
 Schue, Howard K., [REDACTED]
 Schukert, Michael A., [REDACTED]
 Schuldt, Robert E., [REDACTED]
 Scott, Jerry, [REDACTED]
 Scott, Richard B., [REDACTED]
 Sezerstedt, David D., [REDACTED]
 Sehorn, James E., [REDACTED]
 Selfried, Douglass E., [REDACTED]
 Serpanos, James E., [REDACTED]
 Searzi, Louis A., [REDACTED]
 Shapiro, Irving W., [REDACTED]
 Shobe, Robert W., [REDACTED]

Shollenberger, Lewis W., Jr., [REDACTED]
 Siegel, Thomas L., [REDACTED]
 Sinclair, Malvin D., [REDACTED]
 Singleton, Carl W., [REDACTED]
 Sittnick, Robert W., [REDACTED]
 Slaton, Charles M., [REDACTED]
 Smith, Craig R., [REDACTED]
 Smith, Donald L., [REDACTED]
 Smith, James H., [REDACTED]
 Smith, Kenneth E., [REDACTED]
 Smith, William A., [REDACTED]
 Snyder, Harry G., [REDACTED]
 Sorenson, Gerald W., [REDACTED]
 Sowell, Robert S., [REDACTED]
 Sraders, Guntis, [REDACTED]
 Stadhelm, John L., [REDACTED]
 Stahl, Mark S., [REDACTED]
 Stallcup, Walter B., [REDACTED]
 Stepan, David J., [REDACTED]
 Sternberg, George A., [REDACTED]
 Stevens, David P., [REDACTED]
 Stewart, Thomas J., Jr., [REDACTED]
 Strasser, Allen E., Jr., [REDACTED]
 Streamo, Donald R., [REDACTED]
 Strickland, John B., [REDACTED]
 Strones, Martin E., [REDACTED]
 Stuckey, Roy E., [REDACTED]
 Summers, Allen W., [REDACTED]
 Supencheck, Dennis A., [REDACTED]
 Swanson, Harold J., Jr., [REDACTED]
 Tammen, Roger T., [REDACTED]
 Tassone, Anthony Jr., [REDACTED]
 Tate, Vernon R., [REDACTED]
 Tatum, Harold, [REDACTED]
 Taylor, Bryan W., [REDACTED]
 Thomas, William J. M., [REDACTED]
 Thompson, Elton G., [REDACTED]
 Thompson, John R., [REDACTED]
 Thornton, John S., Jr., [REDACTED]
 Thornton, Richard C., [REDACTED]
 Thyng, James R., [REDACTED]
 Todd, Marlon A., Jr., [REDACTED]
 Tramonti, Louis G., [REDACTED]
 Ufen, George H., [REDACTED]
 Utterback, Ralph M., Jr., [REDACTED]
 Vaughan, Michael L., [REDACTED]
 Venett, Emmett, Jr., [REDACTED]
 Vonkoinitz, George F., IV, [REDACTED]
 Wagner, Gervase J., [REDACTED]
 Wakefield, Laverne E., Jr., [REDACTED]
 Wall, John H., [REDACTED]
 Walsh, Richard K., [REDACTED]
 Weber, Dennis F., [REDACTED]
 Webster, Ernest R., [REDACTED]
 Webster, James K., [REDACTED]
 Weiland, Lee T., Jr., [REDACTED]
 Weinhagen, George L., [REDACTED]
 Weinstein, Mark A., [REDACTED]
 Weir, Harry G., [REDACTED]
 Weir, James, [REDACTED]
 Westerbeck, Gerald W., [REDACTED]
 Wetterau, Ronald B., [REDACTED]
 Wilkinson, David N., [REDACTED]
 Wilkinson, Robert N., [REDACTED]
 Williams, Frederick E., [REDACTED]
 Williams, Roger L., [REDACTED]
 Williams, William B., [REDACTED]
 Wilmans, Norman A., [REDACTED]
 Wilson, John M., Jr., [REDACTED]
 Wiltjer, James R., [REDACTED]
 Winburn, Howard J., [REDACTED]
 Wingerter, John E., [REDACTED]
 Witcher, Bruce E., [REDACTED]
 Woodruff, Kenneth E., [REDACTED]
 Woolsey, David T., [REDACTED]
 Worrall, Maxwell B., [REDACTED]
 Young, Robert A., [REDACTED]
 Young, Robert W., [REDACTED]
 Zahrobsky, Frank M., [REDACTED]
 Zawadzki, Charles W., [REDACTED]
 Ziegler, Wilfred E., [REDACTED]
 Zimmerman, Lloyd R., [REDACTED]

CHAPLAIN CORPS

Bagge, Carl J., [REDACTED]
 Bartos, Francis J., [REDACTED]
 Blattner, Joseph H., Jr., [REDACTED]
 Brown, Richard J., III, [REDACTED]
 Chambers, John R., [REDACTED]
 Costagliola, Salvatore M., [REDACTED]
 Ditucci, Ralph L., [REDACTED]

Dixon, Jerome A., [REDACTED]
 Fleming, Jerry D., [REDACTED]
 Hecht, Darrell E., [REDACTED]
 Kennedy, David K., [REDACTED]
 Kloehn, Gordon A., [REDACTED]
 Koch, Glenn A., [REDACTED]
 Krozser, John J., [REDACTED]
 Ryan, Albert J., [REDACTED]
 Solomon, Victor M., [REDACTED]
 Steiner, Donald R., [REDACTED]
 Warford, Kenneth A., [REDACTED]
 White, Stanley E., [REDACTED]

DENTAL CORPS

Borstad, Clark G., [REDACTED]
 Kidd, William L., [REDACTED]
 McConnell, Michael A., [REDACTED]
 Mehlich, David F., [REDACTED]
 Ott, Charles R., [REDACTED]
 Paul, Rivers E., [REDACTED]
 Sabino, Anthony D., [REDACTED]
 Sher, James R., [REDACTED]

MEDICAL CORPS

Ammon, Helmut V., [REDACTED]
 Bietz, Duane S., [REDACTED]
 Blankenbaker, Ronald G., [REDACTED]
 Bohmer, Ronald J., [REDACTED]
 Boman, Peter L., [REDACTED]
 Borcherding, Harlan J., [REDACTED]
 Bryan, Donald W., [REDACTED]
 Burns, Christine L. F., [REDACTED]
 Campanini, Rafael Z., [REDACTED]
 Foster, Jerry J., [REDACTED]
 Hofman, Walter L., [REDACTED]
 Jimenez, Jesus G., [REDACTED]
 Kentsmith, David K., [REDACTED]
 Lorenziarroyo, Pedro A., [REDACTED]
 Lower, Dennis L., [REDACTED]
 Massello, Thomas P., [REDACTED]
 McCracken, John W., Jr., [REDACTED]
 Millikan, William J., Jr., [REDACTED]
 Morgan, Jacqueline, [REDACTED]
 Nave, Paul L., [REDACTED]
 Nelson, James L., [REDACTED]
 Park, Chan H., [REDACTED]
 Sagulguit, Gil D., [REDACTED]
 Scriggins, Alan L., [REDACTED]
 Timberlake, Byron B., [REDACTED]

NURSE CORPS

Adams, Marjorie A., [REDACTED]
 Aguirre, Lucia D., [REDACTED]
 Alford, Virginia C., [REDACTED]
 Andrews, Paula J., [REDACTED]
 Atchison, Jean C., [REDACTED]
 Biser, Mary J., [REDACTED]
 Blakelobb, Marjorie A., [REDACTED]
 Breault, Helen D., [REDACTED]
 Bristow, Jacquelyn C., [REDACTED]
 Brodie, Syble J., [REDACTED]
 Campbell, Ann E., [REDACTED]
 Carson, Gayle J., [REDACTED]
 Christensen, Mary A., [REDACTED]
 Clark, Marcia P., [REDACTED]
 Davis, Dian J., [REDACTED]
 Dulock, Helen L., [REDACTED]
 Fontes, Shirley J., [REDACTED]
 Gilliam, Rachel J., [REDACTED]
 Hall, Nancy J., [REDACTED]
 Hernandez, Dora E., [REDACTED]
 Hill, Marjorie A., [REDACTED]
 Holdslaw, Lois F., [REDACTED]
 Hovey, Billie B., [REDACTED]
 Hueschen, Helen J., [REDACTED]
 Hughes, Samuel T., Jr., [REDACTED]
 James, Shirley J., [REDACTED]
 Kayate, Ethel M., [REDACTED]
 Kazlauskas, Carol A., [REDACTED]
 Knelp, Helen E., [REDACTED]
 Lee, Elvira, [REDACTED]
 Marino, Mary L., [REDACTED]
 McEachern, Mary C., [REDACTED]
 McGuane, Marilyn S., [REDACTED]
 Mulrooney, Sandra L., [REDACTED]
 Murray, David, [REDACTED]
 Neuwirth, Eleanor M., [REDACTED]
 Nicholson, Sally P., [REDACTED]
 Norris, Audrey M., [REDACTED]
 O'Neal, Laveta F., [REDACTED]
 Patterson, Leonard H., [REDACTED]

Pickel, Delane V., [REDACTED]
 Pruett, James F., [REDACTED]
 Reichenbach, Georgianna, [REDACTED]
 Rettenberg, Gerald, [REDACTED]
 Ricci, Sara E., [REDACTED]
 Ross, Hilda J., [REDACTED]
 Roubik, Robert A., [REDACTED]
 Shaw, Anis M., [REDACTED]
 Shelby, Betty R., [REDACTED]
 Shorb, Garnett A., [REDACTED]
 Smith, Judith L., [REDACTED]
 Smith, Mary P., [REDACTED]
 Taylor, Carol A., [REDACTED]
 Tollerton, Thomas R., [REDACTED]
 Trabal, Agnes A., [REDACTED]
 Trapl, Monika B., [REDACTED]
 Wahl, Marilyn J., [REDACTED]
 Wearshing, Jane D., [REDACTED]
 Wheaton, Nancy E., [REDACTED]
 Wolf, Carol A., [REDACTED]
 Zarrella, Marjorie M., [REDACTED]

MEDICAL SERVICE CORPS

Baker, Frank C., [REDACTED]
 Billouris, Chrisillos T., [REDACTED]
 Bold, Fank O., [REDACTED]
 Bussy, Joseph T., [REDACTED]
 Fischell, James R., [REDACTED]
 Giardina, Anthony J., [REDACTED]
 Jenkins, William I., Jr., [REDACTED]
 Kartekhoff, Paul L., [REDACTED]
 Manuel, Frederick D., [REDACTED]
 Molln, David R., [REDACTED]
 Nelson, Harry G., [REDACTED]
 Nelson, Vearl V., [REDACTED]
 Pickens, James F., II, [REDACTED]
 Scott, Philip P., [REDACTED]
 Stanberry, Richard A., [REDACTED]
 White, Clement H., [REDACTED]
 Zakur, Paul J. R., [REDACTED]

BIOMEDICAL SCIENCE

Eason, Robert L., [REDACTED]
 Funk, Kenneth D., [REDACTED]
 Kasselder, Charles W., [REDACTED]
 Logsdon, Donald F., Jr., [REDACTED]
 Mull, Ronald L., [REDACTED]
 Parker, Frank M., III, [REDACTED]
 Rich, Robert O., [REDACTED]
 Robinson, Billy J., [REDACTED]
 Sappington, Wilbur M., Jr., [REDACTED]
 Wiseman, Nancy L., [REDACTED]

IN THE AIR FORCE

The following Air National Guard of the U.S. officers for promotion in the Reserve of the Air Force under the provisions of section 593(a), title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. William J. Athas, [REDACTED]
 Maj. William S. Bailey, [REDACTED]
 Maj. Joseph D. Cunningham, [REDACTED]
 Maj. Charles K. Cross, Jr., [REDACTED]
 Maj. John F. Hindman, [REDACTED]
 Maj. Richard O. Hostetler, [REDACTED]
 Maj. Dominick R. Linarello, [REDACTED]
 Maj. Richard P. McCartney, [REDACTED]
 Maj. Billy McDaniel, [REDACTED]
 Maj. Michael C. Murphy, [REDACTED]
 Maj. Holly A. Pederson, [REDACTED]
 Maj. Jean R. Price, [REDACTED]
 Maj. John L. Ruppel, Jr., [REDACTED]
 Maj. Richard L. Schmitt, [REDACTED]
 Maj. Donald W. Shepperd, [REDACTED]
 Maj. Donald M. Swayze, [REDACTED]
 Maj. Paul A. Weaver, Jr., [REDACTED]
 Maj. William S. Womble, [REDACTED]

LEGAL

Maj. Alan B. Johnson, [REDACTED]

CONFIRMATIONS

Executive nominations confirmed by the Senate November 23, 1981:

DEPARTMENT OF STATE

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.

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.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF DEFENSE

Melvyn R. Paisley, of Washington, to be an Assistant Secretary of the Navy.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard Hulbert Groves, [REDACTED] (age 58), Army of the United States (major general, U.S. Army).

CALIFORNIA DEBRIS COMMISSION

Brig. Gen. Homer Johnstone, Jr., [REDACTED], Col. Paul Bazilwich, Jr., [REDACTED], and Col. Paul Frederick Kavanaugh, [REDACTED], all of the Corps of Engineers, to be members of the California Debris Commission, under the provisions of section I of an act of Congress approved 1 March 1893 (27 Stat. 507) (33 U.S.C. 661).

MISSISSIPPI RIVER COMMISSION

Maj. Gen. William Edgar Read, [REDACTED], U.S. Army, to be a member and President of the Mississippi River Commission; and Maj. Gen. Hugh Granville Robinson, [REDACTED], U.S. Army, and Brig. Gen. Richard Samuel Kem, [REDACTED], U.S. Army, to be members of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642).

Rickey Dale James, of Missouri, to be a member of the Mississippi River Commission for a term of 9 years.

IN THE AIR FORCE

Air Force nominations beginning Ernest Z. Adelman, to be colonel, and ending Richard B. Yules, to be colonel. (See Executive Journal proceedings of November 4, 1981, for complete list.)

IN THE NAVY

Navy nominations beginning Hugh Highland, to be commander, and ending Craig Winters, to be lieutenant commander. (See Executive Journal proceedings of November 4, 1981, for complete list.)

Navy nominations beginning Charles Ervin Aaker, to be commander, and ending Anne Marie Nelson, to be commander. (See Executive Journal proceedings of November 9, 1981, for complete list.)

Navy nominations beginning Michael A. Harwell, to be lieutenant commander, and ending Ronald P. Howell, to be ensign. (See Executive Journal proceedings of November 10, 1981, for complete list.)

WITHDRAWAL

Executive nomination withdrawn from the Senate November 23, 1981:

John L. Mevers, of Louisiana, to be U.S. marshal for the middle district of Louisiana for the term of 4 years, vice Thomas A. Grace, Jr., retired, which was sent to the Senate on November 4, 1981.